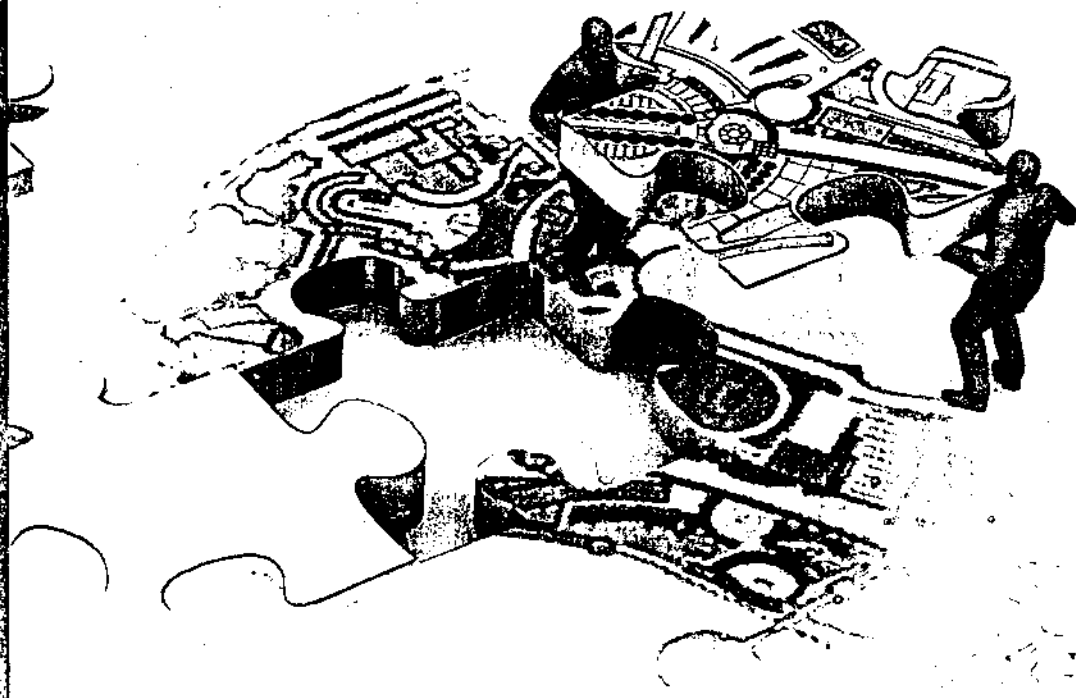


THE HONG KONG INSTITUTE OF SURVEYORS 20th Anniversary Conference

on

Public Private Partnerships

29th May 2004



Organised by



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CONTENTS

Preface		A1 – A2
<u>Programme</u>		
0900	Welcoming Speech (Mr. Tony Tse, HKIS President)	B1 – B5
0910	Opening Speech (Dr. Sarah Liao, Secretary for the Environment, Transport and Works)	
0925	Public Private Partnerships: Infrastructure Development in Hong Kong (Keynote Speaker : Sir Gordon Wu)	
0950	HKSAR Government : PPPs – the Way Forward (Mr Steve Barclay)	E1 – E13
1015	The Political Dimension of PPPs: Building Support for the Process (Mr Arthur McInnis)	F1 – F5
1040	Discussion and Q&A (Panel Chairman: the Hon. P C Lau)	
1050	(Coffee)	
1105	From BOOTs to PPPs: Towards a National Market for PPPs in Australia (Keynote Speaker : Mr Steven Page)	G1 – G6
1130	PPP Projects in the United Kingdom: the Successes and Failures (Mr Igor Rukuts)	H1 – H18

1155	A Critical Review of Current PFI Projects in Japan (Mr Akio Yamashita)	I1 – I7
1220	Public Private Partnerships in Canada: Successes, Opportunities and Challenges (Keynote Speaker : Dr A. Scott Carson)	J1 – J7
1245	Discussion and Q&A (Panel Chairman: the Hon. P C Lau)	
1300	(Lunch)	
1400	Public Private Partnerships in Hong Kong (Mr Daniel Liew)	K1 – K8
1420	PPP Progress in the United States (Dr Richard Larew)	L1 – L7
1440	Standardisation for PFI Contract (Mr Rupert Sydenham)	M1 – M9
1500	Discussion and Q&A (Panel Chairman: Prof. KW Chau)	
1510	(Coffee)	
1525	Land Issues in PPP Projects (Mr Yu Kam Hung)	N1 – N9
1545	Attracting Private Sector Capital to PPP in Hong Kong (Mr Jonathan Drew)	O1 – O12
1605	Funders Due Diligence Process: the Roles of Surveyors in PPP Projects (Mr Paul Norris)	P1 –P9

1625	PPP and Strategic Outsourcing in Facility Management (Dr Chan Man Wai)	Q1 – Q13
1645	Discussion and Q&A (Panel Chairman: Prof. KW Chau)	
1700	Closing Speech (Mr. T T Cheung, Senior Vice-President, HKIS)	
	Speakers' Profile	R1 – R17
	PPP News	S1 – S2
	Guests and Delegates	T1 – T7
	Supporting Organizations	U1 – U2
	Conference Organizing Committee	V1 – V2

Preface

Public Private Partnerships (PPP) has been practised for some years in other countries as a means of providing public facilities and services. There is no universal definition of PPP. Simply put, it is an arrangement whereby the Government, and taxpayers ultimately, benefits from a partnership arrangement with the private sector in planning, financing, designing, constructing, operating and managing public facilities and services.

Against the backdrop of public finance constraints and under the policy of “big market, small government”, the Hong Kong SAR Government has recently been active in pursuing PPP for a number of projects.

The Hong Kong Institute of Surveyors supports the principle of active involvement of the private sector in the provision of public facilities. However, PPP is relatively new to Hong Kong and is still very much under-researched as an academic subject and in application.

Before PPP can be properly implemented, many critical issues need to be carefully addressed, e.g. constructing a proper business case; ascertaining affordability and value for money; public consultation and accountability; maintaining competitive tension; risk management; change management; and implications on in-house services and staff.

The HKIS is honoured to have the opportunity of hosting this Conference with many renowned speakers, local and overseas, sharing their visions and experience on PPP. The Conference will cover a wide range of topics around the main themes of “Local Developments”, “International Developments” and “Critical Issues” of PPP.

We are grateful to the professional / educational institutions, which are separately acknowledged in these proceedings, for supporting the Conference.

It is hoped that the Conference will form a basis for further discussions and researches, and that jointly, the industry will devise PPP models / solutions that are appropriate to the local context.

Francis Leung Dr. Paul Ho

on behalf of the Conference Organizing Committee
29 May 2004

Welcoming Speech

Mr. Tony Tse
President

The Hong Kong Institute of Surveyors

The Hong Kong Institute of Surveyors
20th Anniversary Conference on “Public Private Partnerships”
The President’s Welcoming Speech – 29th May 2004

The Honourable Dr. Liao, distinguished guests, fellow members, ladies and gentlemen,

Good morning! It gives me great pleasure to welcome you all to take part in today’s Conference organized by the Hong Kong Institute of Surveyors. I am delighted to see so many guests and members including government policy makers, scholars, professionals and practitioners, local and overseas, all gathering here today to share their knowledge, experience and visions of a new approach to the delivery of public facilities and services – Public Private Partnerships (PPP).

The PPP Conference today is one of a series of activities celebrating the 20th Anniversary of the Hong Kong Institute of Surveyors. Many of the audience today have attended the Cocktail Party at the newly opened Surveyors’ Learning Centre on our anniversary day, 26th April 2004. As we take stock of what we have achieved, we must prepare ourselves for future challenges and opportunities.

One of the key changes being witnessed in our profession is the changing roles of the government, developers, professionals, contractors and suppliers. The boundaries between the various phases of procurement have become less defined; cross-fertilization of expertise has become the norm. It was against this background that PPP gradually became popular in recent years in other parts of the world such as Australia, Canada, Japan, the United Kingdom and the United States of America.

To Hong Kong, Public Private Partnerships (PPP) is a relatively new term, a new subject. But it is not a new concept. BOT (Build Operate and Transfer) could be regarded as an early form of PPP. Our Cross Harbour Tunnel, completed in 1973, is an example of extreme success of BOT. For public housing, the Private Sector Participation Scheme (PSPS) was popular in the 80s and 90s as a model of delivery of the Private Ownership Housing. We have therefore had good knowledge and experience as well as a sound platform for public-private co-operation in the delivery of public facilities and services.

The PPP models that have been implemented in recent years in other countries (noticeably Australia, Canada, Japan, UK and USA) operate around the principle of capturing the private sector’s expertise in design, finance,

construction and management, while the government retains ultimate responsibility for delivery of core services to the community.

While there are many examples of success in other countries where PPP has resulted in innovative ideas in design / operation, and lower construction / operation costs, we also noted cases that the objectives of innovation and cost-saving are not met.

The concept of PPP was introduced to Hong Kong in recent years, and became a hot topic in recent months, being widely discussed by the public and the construction industry against the backdrop of the Hong Kong SAR's public finance constraints and the government's declared policy of "big market, small government".

However, many in the industry and the public learnt of the term PPP in a somewhat controversial background, stemming largely from the debate over the West Kowloon Cultural District project. I guess some of the audience come to this Conference expecting to hear what some of our expert speakers will say about the West Kowloon Cultural District project, when the tender closing date is only some two weeks away. However, I am sorry to say that you may be disappointed as I believe there will be little discussion on the West Kowloon Cultural District project today!

Having said that, today's conference will be packed with a wide range of topics around the theme of "Local Developments", "International Developments" and "Critical Issues" of PPP. We are particularly honoured to have a good number of renowned speakers from Australia, Canada, Japan, the UK and the USA. It will be a unique opportunity for us to hear from these experts, first hand, about what the other countries have done on PPP, and their stories of success as well as experience of failures.

Apart from overseas experience, we will also benefit from our speakers on a number of essentials for PPP, such as

- establishing a sound business case for a PPP project
- ascertaining affordability and value for money
- public consultation / accountability
- maintaining competitive tension
- risk management
- change management; and
- staff issues and how to achieve a "win-win" outcome.

I would like to thank in particular the keynote speakers: Sir Gordon Wu,

Mr. Steven Page of the Government of South Australia, and Dr. A. Scott Carson of the Canadian Council for PPP. My sincere thanks also go to the Honourable P C Lau, Legislative Councillor, and Professor K W Chau, Dean of the Faculty of Architecture, the Hong Kong University, for moderating the morning and afternoon discussion panels.

Being a professional institute with over 6,000 members specializing in infrastructure / real estate development and management, the HKIS is committed to assisting the construction industry and the HKSAR Government in building up a strong knowledge-base of PPP in Hong Kong. We would also like to see structured and transparent implementation of PPP in Hong Kong. We have recently published a pamphlet on "the Professional Services for PPP" – a copy of which is included in the Conference Proceedings Package. We have also set up an e-corner on PPP in the HKIS website to gather views and experience from practitioners.

The development of PPP will no doubt be a joint effort of the whole Industry. Dr. Liao, your presence as the Guest of Honour shows the highest level of support by the government to this endeavour. The fact that we have 12 professional / educational institutions supporting our PPP Conference bears testimony to our readiness. In this regard, I am truly grateful to the following institutions:

- the Real Estate Developers Association of Hong Kong
- the Hong Kong Institute of Architects
- the Hong Kong Institution of Engineers
- the Hong Kong Institute of Planners
- the Law Society of Hong Kong
- the Hong Kong Institute of Facility Management
- the Hong Kong Construction Association Limited
- the Hong Kong Institute of Construction Managers
- the Chartered Institute of Building (Hong Kong)
- the University of Hong Kong
- the Polytechnic University of Hong Kong; and
- the City University of Hong Kong

Finally, I would like to thank the Conference Organizing Committee, led by Mr. Francis Leung and Dr. Paul Ho, for their visions and hard work in organizing this Conference, publishing the PPP Pamphlet, and setting up the PPP e-corner in the HKIS website.

Ladies and gentlemen, we may have different levels of knowledge, perception or views about PPP. But I am sure you all will agree on one fact:

none of us knows enough about PPP. PPP is still very much under-researched in Hong Kong. It is a tool, good or bad, that we all need to practise before we can claim ourselves to be experts. Let's join hands to build a strong knowledge-base of PPP, devise PPP models that are most appropriate to the local context, and adopt a structured and transparent approach in its implementation.

With these notes, I declare the HKIS 20th Anniversary Conference on Public Private Partnerships open and wish you all having an enjoyable and fruitful day.

Thank you very much.

Tony Tse
President
Hong Kong Institute of Surveyors

May 2004

HKSAR Government : PPPs – the Way Forward

Mr Steve Barclay
Assistant Director
Efficiency Unit
HKSAR Government

President, Dr Liao, ladies and gentlemen,

May I start off by congratulating the HKIS on its success in putting on this conference? I have attended a considerable number of similar events over the last year or two, and I can say with some confidence that you have assembled a most distinguished and experienced raft of speakers.

However, this success has given me a problem. Your most distinguished first guest speaker, Dr Sarah Liao, has already covered much of what I expected to say when, a few months ago, I ventured the title of my speech ‘HKSAR Government: PPPs – the way forward’. Fortunately for you, Dr Liao has elegantly summarized in a few minutes what I would have laboured over for half an hour or more. So what does that leave me to talk about?

A quick review of my PPP press clippings over the last few months helped me to decide. With the indulgence of the President, I propose to focus on what are, I think, a number of important conceptions and misconceptions about PPPs in the public arena. I will also touch on a couple of points about the way forward.

'An Introductory Guide to Public Private Partnerships'

But before I go any further, I would also like to say a few words about the 'guide' prepared by the Efficiency Unit last year.

First, it was deliberately entitled 'an introductory guide'. It is not intended to be comprehensive or exhaustive, because we know that we do not have all the answers to all the questions. Many of these answers will only reveal themselves when we take a few PPP projects forward through to implementation. It is the EU's intention to keep a close eye on PPP developments, both overseas and locally, and we will update and amend the 'introductory guide' as those lessons learned point clearly to particular courses of action.

Second, whilst government has not yet issued any separate circulars on PPP procedures, the procedural steps are clearly outlined in the guide. These resulted from consultation with both the Treasury Branch of the Financial Services and Treasury Bureau, and the Works Branch of Environment, Transport and Works Bureau. If there are any identified weaknesses, or omissions, we will be happy to address them in the next edition.

So to the first of the conceptions, misconceptions that I would like to address

Does Hong Kong have an appropriate Regulatory Framework within which to implement PPPs?

We do not have a specific PPP regulatory framework. During the early stages of drafting the 'Introductory Guide to PPPs', one of the first questions I raised with the Department of Justice was whether we needed a PPP law. The advice we got back was that there are extensive constitutional and common law powers available to the government to allow it to enter into commercial contracts, including PPP contracts, and that there was no need for a separate PPP Ordinance.

It is also the case, however, that if the subject matter of the proposed PPP contract is covered by an Ordinance, then regulations within that Ordinance will take precedence over any other legal powers and may constrain the actions to be taken with respect to a PPP. I have seen a number of instances where the

wording of a particular section in an Ordinance has the effect of preventing the government from entering into a particular PPP because a principal-to-agent relationship rather than a principal-to-principal arrangement is envisaged. I suspect that the law drafters, and the legislators, at the time were not actually opposed to PPPs, simply that at that time they were not on the agenda. This is easiest to see in some older pieces of legislation, where the Ordinance has been amended many times, for different purposes, by different law drafters, by different Legislative Councils. In some of these cases, the legislation is not even internally consistent from one section to another.

This makes it extremely important that anyone contemplating entering into a PPP arrangement – from government or the private sector – examines carefully whether there are any ‘vires’ constraints on the proposed course of action.

In some cases, amendments to an Ordinance will be required.

Personally, I agree that it would be very much simpler for the civil service, and the private sector, if we did enact a piece of omnibus PPP legislation that said... something to the effect that... notwithstanding any other legislation Government can take the PPP approach... perhaps subject to agreement by the Chief Executive in Council and a Resolution of the Legislative Council. However, I doubt whether the Legislative Council would be willing to countenance such a legislative item. Whilst I am not as familiar with Legco as I used to be, I understand they still prefer to scrutinize proposals very carefully and on a case-by-case basis.

Has the PPP Approach proven beneficial to governments and can Hong Kong achieve similar benefits?

The Government’s position, which is made very clear in the PPP Guide, is that there is a mass of evidence demonstrating the benefits of the PPP approach, particular those that arise from improved linking of the processes of designing, constructing, operating and maintaining a facility, linking that to the services delivered, and in one seamless exercise focus on full lifecycle costs.

That does not mean, however, that we advocate the blanket usage of the PPP approach. Far from it, projects have to meet a number of criteria to

become successful PPPs, and it is essential to conduct a PPP feasibility study on each and every project that is proposed to take the PPP approach. If there are not clear indications that the PPP approach is advantageous, then the client department will be advised to take the traditional procurement route.

It is also worth noting that initiating the PPP approach for a project is not an irrevocable decision. There are a number of opportunities to opt out of the PPP process after it has been decided to proceed. I am not advocating that this decision should be taken lightly, or frequently, otherwise we will be accused of bad faith by the private sector, and ultimately the private sector will simply stop showing interest. Nonetheless, if the public interest so requires, Government can pull out (as can the private sector) at any point in the process up until the signing of the contracts.

Do we think that PPPs are a panacea for public development projects?

There have been claims that the Government sees PPPs as a panacea for public development and a solution to the budget deficit. This accusation surprises me. If it was true, I would expect to see every major public works project being prepared using the PPP approach. That is simply not the case. There are only a small number of projects where the approach is being followed – depending on your definition of PPP (and I am not entering that debate today) the main ones are – Disneyland...the Airport Exhibition Centre...West Kowloon Cultural District... Shatin Water Treatment Works... perhaps the Prince of Wales Hospital redevelopment. These are not insignificant, but nor are they a headlong rush into the unknown. As for solving the budget deficit, if this was a magic solution, then I would have expected the Financial Secretary to have waved his magic wand by now. And on the subject of magic wands, I am happy to put to rest a couple of myths about PPPs, that suggest that they can defy the laws of economics.

- ♦ First, if Government has been unable to recover costs from users, a PPP partner will often find similar difficulties, particularly if price setting in the area of activity is subject to legislative controls. Any attempt by Government to link the private partners' revenue to unrealistic levels of cost recovery will fail. The private sector will either decline to participate, or will price its bid to cover the worst case scenario. In such circumstances, the Government must retain the risk of

recovering costs (as has been proposed with the Shatin Water Treatment Works, for example).

- ♦ Second, a PPP approach will not always absolve the Government of financial commitment. This might be true in some cases, and we have had some successful BOT projects here where this has been the case. However, I expect that the majority of future PPP projects in Hong Kong will involve the public purse continuing to pick up some or all of the bill. In a prison project, for example, I doubt that we can persuade the end-users ... the prisoners to pay for providing their accommodation as a guest of the government.

Do PPPs lead to a heightened risk of corruption?

There is a risk of corruption in any project involving large sums of money and this applies equally to PPP projects. I am pleased to say that the ICAC was one of the earliest government agencies to get actively engaged in the development of our efforts to promote PPPs. The ICAC has examined the proposed procedures, offered advice on corruption prevention measures, suggested the use of ‘probity auditors’ and offered assistance to individual developments considering PPP projects. For example, the ICAC has been involved in the Shatin Water Treatment Works project.

Those of you familiar with Hong Kong will know that the ICAC Ordinance, the Prevention of Bribery Ordinance, and a host of circulars on procedures make corrupt behaviour on the part of the civil servant a risky business. No one is pretending corruption does not exist, but we are now far away from the syndicated, organized corruption of three decades ago. The main concern now, at least as far as PPPs are concerned, is the extent to which the private partner has put in place equivalent corruption prevention procedures and measures. This is a matter that we would expect to be specifically addressed by departments when entering into PPP contracts.

Will PPPs lead to the creation of avoidable and undesirable monopolies?

We are very mindful of the risks of creating such monopolies, particularly of putting the government into an unequal negotiating position with respect to the continued provision of an essential service. Whilst there may be occasions when creating a monopoly is, in practice, unavoidable, we will avoid it

whenever practicable. One example on the horizon where there is the potential to put the government into the position of contracting with what would become a monopoly supplier within the SAR is the prison co-location project at Hei Ling Chau. Whilst I do not wish to pre-empt the public consultation exercise, and Legco's consideration of the proposal, I can say that IF the decision to proceed with the project is taken, the Efficiency Unit is likely to be involved in conducting a PPP feasibility study. Part of that study will be to consider the risks associated with letting a single contract and whether the project should therefore be implemented by one or more PPP contracts.

How can we show that a PPP project will deliver Value for Money?

A fundamental tenet of the PPP approach is that it should offer better value for money than the traditional means of procurement. That statement is the easy bit. Demonstrating this will be the case is the challenge that we face in each proposed project. In the PPP Guide we talk about constructing a 'public sector comparator' or 'PSC', which is the risk-adjusted, estimated full lifecycle cost of a project if it was done by conventional in-house means. It is expressed in terms of net present value.

It is usually relatively easy to assess what the design and construction costs of a facility will be. The difficulty is establishing what the recurrent costs of running a facility would be over the next 25 years or so. Another problem is related to establishing the costs of free services provided by other departments, which must also be included if a fair comparison is to be achieved. The point to note here is that using a PPP approach will impose financial disciplines that are best practice and should in preference be applied to major projects whatever the implementation approach.

Are PPP projects a means of bypassing Legislative Council scrutiny?

Some commentators, and some Legislative Councillors have expressed concern that the PPP approach is intended to avoid Legislative Council scrutiny. This is not the case. First of all, most PPP projects will involve public funding, and this will require scrutiny and approval by the Finance Committee.

On the rare occasion that a PPP project does not require any public funding, the EU (and the PPP Guide) has advocated that Government should still seek Legco support, in line with policies on accountability and transparency.

Finally, what would I like to add on the subject of the way forward?

Over the past 18 months, and during the last 6 months in particular, there have been a considerable number of events like this, organized by professional bodies such as the Institute, or by consulates. These events have been well attended, not only by private companies with products and services to sell, but also by many departments that are considering whether projects under their purview might benefit by being done as a PPP.

Such conferences and seminars have, I believe, helped achieve a number of important objectives-

- ♦ they have contributed to the very necessary public debate on the role of PPPs in Hong Kong;
- ♦ they have enhanced understanding of what PPPs can, and cannot, be expected to deliver; and
- ♦ they have given comfort to many of my colleagues that there is a sufficient number of interested and experienced parties in the market place to provide the right sort of services in a competitive environment.


Some of you will be aware that a delegation of civil servants, from 16 bureau and departments, will shortly be visiting Melbourne, Australia to examine the Victorian Government's approach to PPPs. On our return, we will be sharing this experience with colleagues at a number of in-house seminars. The number of departments involved gives me considerable comfort that there are many colleagues who are now giving very serious consideration to using PPPs.

I believe that the next six months or so will prove most important. If projects like the Shatin Water Treatment Works make good progress, then the chances are that many more individuals in departments will be encouraged to turn to the PPP approach for their projects.

It is worth noting that, last autumn, when we launched the PPP Guide, about 200 directorate staff and 300 professional officers from over 50 bureaux and departments turned up for the briefings. This suggests to me, together with the numbers of civil service colleagues that I see regularly at events like this, that there is a genuine interest in PPPs, and a growing understanding of the benefits that PPPs, properly selected, properly prepared and properly implemented, can bring to our community.

The EU will continue with its efforts to promote and support the use of PPPs. If you would like to take a look at the PPP Guide, or any other matters related to our work, you are welcome to visit our website at www.info.gov.hk/eu/.


Thank you.



Hong Kong Institute of Surveyors
'HKSAR Government: PPPs – the Way Forward
20th Anniversary Conference
at JW Marriott Hotel
29 May 2004

Presented by Steve Barclay
Assistant Director
Efficiency Unit


香港特別行政區政府
THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION



PPPs – the Way Forward

An Introductory Guide to PPPs


- ◆ Introductory
- ◆ Procedural steps



PPPs – the Way Forward

Regulatory Framework


- ◆ Constitutional and common law powers
- ◆ Ordinances take precedence
- ◆ Principal-to-principal / agent relationships
- ◆ 'vires' constraints
- ◆ Omnibus PPP legislation?



PPPs – the Way Forward

Are PPPs beneficial to Hong Kong?


- ◆ End-to-end focus
- ◆ Individual feasibility studies essential
- ◆ Opting out



PPPs – the Way Forward

Panacea for Public Development?


- ◆ Modest approach so far
- ◆ Great care over cost recovery
- ◆ Continued government subsidy / funding



PPPs – the Way Forward

Corruption


- ◆ Active ICAC involvement
- ◆ Probity auditors
- ◆ Focus on private partner



PPPs – the Way Forward

Monopolies


- ◆ No intention to replace public monopolies by private monopolies



PPPs – the Way Forward

Value for Money


- ◆ Fundamental
- ◆ Public Sector Comparator
- ◆ Inclusion of 'free services'



PPPs – the Way Forward

By-passing the Legislative Council


- ◆ Most projects will involve public funding
- ◆ Commitment to accountability and transparency



PPPs – the Way Forward

- ◆ **Welcome more PPP conferences and seminars**
- ◆ **Duty visit to Australia**
- ◆ **EU to continue to promote and support PPPs**

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**The Political Dimension of PPPs:
Building Support for the Process**

Mr Arthur McInnis
Consultant
Clifford Chance

Public Private Partnership Newsletter

May 2004

Welcome to the May edition of the Public Private Partnership Newsletter, which aims to inform readers about recent developments concerning the PFI/PPP market.

The Budget 2004

HM Treasury published the Budget on 17 March 2004. Chapter C of the Financial Statement and Budget Report includes the Government's estimate of the investment in public services resulting from signed PFI contracts between 2004 and 2007. For the period 2004-2005, it is projected that £4,066 million will be invested in the public sector across all government departments, decreasing to £2,153 in the period 2006-2007.

Chapter C also contains estimates of the capital value of PFI contracts expected to reach preferred bidder stage between 2004 and 2007, stated as being £3,332 million in 2004-2005 but only £338 million in 2006-2007.

PFI information difficult to access

The Institute for Public Policy Research (IPPR) published a research report on 11 February 2004 which suggested that accessing basic information on PFI projects is too difficult.

The IPPR surveyed access to documents from NHS, central and local government PFI projects and found:

No central government PFI project made available any of the documents requested.

- Only 4 out of 10 documents requested from school PFI projects were made available.
- Only 5 out of 10 documents requested from local government PFI projects were made available.
- The NHS PFI projects surveyed were better as 9 out of 10 documents requested were made available.

The report suggests that the public should have a right of access to PFI information, as this will allow the public to influence the services bought for PFI contracts and to determine whether a project has delivered value for money. The IPPR further suggest that making such disclosure compulsory will neither harm the interests of the private companies undertaking PFI projects or the interests of government departments purchasing services.

Draft value for money appraisal guidance

HM Treasury has consulted on draft guidance setting out a new approach to appraising the value for money of investment proposals to be procured under the Private Finance Initiative.

The guidance is aimed at giving government departments a framework for evaluating "the appropriateness of and value for money of PFI", following changes to the revised Green Book and the Government's policy changes set out in "PFI - Meeting the Investment Challenge" published in July 2003.

Credit Guarantee Finance

HM Treasury has also published a Technical Note on the Credit Guarantee Finance (CGF) scheme, which the Government believes may be a new way of funding PFI projects. CGF schemes will involve a loan agreement between the Government and the project company, to be repaid following completion of the project and backed by an unconditional repayment guarantee from a project company guarantor. The primary benefit of such a scheme for the public sector is stated to be the fact that Government (in the round, in its capacity as provider of the loan, rather than the procuring authority, which will not obtain this benefit) will capture that part of the unitary charge payment that relates to the private sector funding premium that would otherwise go to the private sector. The hope has also been expressed that the CGF scheme may result in lower transaction costs for all parties.

Draft CGF programme documentation has been prepared which includes a standard public sector PFI loan facility term sheet and draft guarantor forms.

Some concerns have been expressed as to whether the CGF scheme creates a level playing field between banks and monolines competing for the guarantor role. Pilot schemes are in the course of being identified.

Standard & Poor's revises assessment of PFI construction firms

The credit-rating provider Standard & Poor's has issued guidance following its revision of the assessment of the creditworthiness of European construction companies involved in PFI projects.

The revision has been prompted by the growth of PFI/PPP as a financing method for the construction of public assets, and Standard & Poor's assertion that the differing levels of risk, levels of capital investment and quality of cash flows between PFI and non-PFI projects has meant that construction firms involved in PFI

should be assessed using different measures because of their unique exposure to PFI project risks. The guidance, titled "PFI Projects Reshape the Credit Profile of Europe's Construction Companies", was published in February 2004.

Standard & Poor's uses a two-stage process when rating construction companies involved in PFI projects. It first looks at the traditional construction aspects of the business as a contractor for the design, building and management of construction projects. The second stage involves an assessment of the company as an investor in the project company that holds the PFI contracts and receives the project and investor finance.

The guidance identifies both positive and negative factors for construction firms involved in PFI projects to be considered in rating the firm. Positive factors include:

- The long-term nature of PFI projects and stable income revenues reduce the impact of the economic cycle of traditional construction companies and markets.
- Counterparty risk is reduced as it is government that usually pays services and maintenance costs.
- There are high barriers to entry to the PFI market due to the expertise required and the capital cost of tendering for PFI projects.

Negative rating factors include:

- Capital is often tied up for the long term in PFI projects, which may cause liquidity problems for construction firms who have historically been used to low levels of debt because they received pre-payments and continuing payments as construction progressed on a project.
- The pricing of projects requires skills not traditionally needed by construction companies and take time to be acquired. Projects need to be accurately modelled to avoid losses.
- The growth of the PFI market has led to a shortage of qualified staff and some companies overreaching themselves by taking on too many projects at once.

Standard & Poor's predicts that, with the growth of PFI across Europe, a two-tier construction market is emerging, comprising of those firms which have the expertise and resources to manage large projects, and those that do not.

European Commission censures UK's failure to legislate following the Alcatel case

The European Commission has issued Reasoned Opinions against the UK and Ireland for failing to comply with their obligations under Directive 89/665/EEC (the Remedies Directive) on public procurement. The Commission's view is that current UK legislation does not fully comply with the requirements laid down by the Remedies Directive.

The Commission's action, taken on 31 March 2004, follows the UK's failure to take legislative account of the decision of the European Court of Justice (the ECJ) in the *Alcatel* case of 1998. In *Alcatel*, tenders were invited for a public procurement contract to supply an electronic information system for the Austrian motorways. The contract was awarded and signed on the same day, the award being challenged by the losing tenderers immediately. However, under Austrian law, once the contract had been made the only remedy available for the awarding authority to comply with the relevant public procurement regulations was damages. This is also the position in the UK. The question the ECJ had to answer was whether the Austrian position of damages as the only remedy for an improperly awarded public procurement contract was compatible with the Remedies Directive, in particular in the case where the award and the formation of the contract take place at the same time.

The ECJ held that Member States were obliged to ensure that aggrieved parties could challenge the award of the contract before it was concluded at a stage where infringement can still be rectified. The *Alcatel* case had the effect of bringing into question the UK's own implementation of the Remedies Directive. Following the decision, the Commission asked the UK to outline its plans to give effect to *Alcatel*.

Under current English law once a contract has been concluded the only remedy is damages. There is no interim relief or relief at the trial (unless both parties knew that the contract was awarded in breach of the PPR). Any actions for damages for breach of PPR are difficult to succeed because of the high evidential obligation imposed by English courts. The courts require the unsuccessful tenderer to prove that he had a substantial chance to be awarded the contract. In the Utilities sector claimants are entitled to damages for the costs of preparing the bid and participating in the award procedure as well, but this rule does not apply to the classical sectors where claimants must show their chances of success on the balance of probabilities together with the profit they would have made from the contract.

The UK Office of Government Commerce (the OGC) published a consultation paper on the issue in December 2001 setting out amendments to English law. The amendments consist of adding a short period of time allowing for judicial review either (i) following conclusion of the contract or (ii) between the award decision and the conclusion of the contract. The results of the consultation have still not been announced and made public. It seems that the Commission does not consider that these amendments are sufficient to comply with the *Alcatel* principle.

The OGC is still considering its response to the Reasoned Opinion of March 2004. If the matter is not resolved or settled, the Commission may bring an action in the ECJ against the UK as a last resort.

The possibility of challenges to contract award decisions is likely to have a significant impact on bid costs (additional due diligence or legal fees), compounding the potentially negative effects of the newly published amended procurement regulations. The amendments put forward by the OGC raise a serious and real concern that unsuccessful tenderers make vexatious challenges. Successful tenderers may also claim against contracting authorities for losses resulting from a breach of the procurement rules should a contract be challenged or set aside.

This publication is designed to provide a summary of the subject matter covered. It does not purport to be comprehensive or offer legal advice.

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**From BOOTs to PPPs:
Towards a National Market for PPPs in Australia**

Keynote Speaker : Mr Steven Page
Executive Director
Projects Analysis Branch
(formerly the Public Private Partnerships Branch)
Department of Treasury and Finance
Government of South Australia



From BOOTs to PPPs:
The development of a national PPP market in
Australia

The PPP journey

1990s: The BOO(T) model
Project report card
Lessons learned

↓

2000s: Adoption of the PPP model
Project report card
National PPP market & the project pipeline

2

Privatisation to BOOTs

Process started with privatisation within the economic reform process starting in the 1980s

- o Public infrastructure projects were developed under the Build Own Operate (Transfer) or BOO(T) model

The BOO(T) model produced mixed results in "economic" infrastructure projects:

- ✓ Urban toll roads
- × Public transport
- ? Water

Outsourcing of services was also extensively alongside the BOOT model

Applying of the BOOT model in "social" infrastructure was slower and more problematic

3

Rationale for BOOTs....

As in the UK, the private sector became involved in Infrastructure financing often for the wrong reasons:

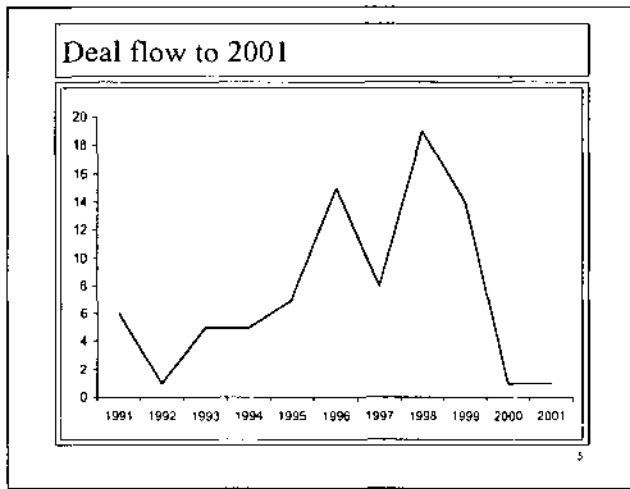
- Shift expenditure from capital to operating budgets
 - o "Off balance sheet" financing
 - o Ad hoc financing of "nice to have" projects
 - o Little strategic context at the State Government level

Result was that several projects either failed or were far too costly

- o Operators received reward for risks they did not carry
- o "Off balance sheet" objective was rarely achieved
- o "Bad apple" syndrome

Treasury departments raised serious doubt over "taxpayer value" using private finance

4



BOOTs to PPPs – current policy & directions

All Australian Governments adopted variants of the UK PFI/PPP model between 2000 and 2002

- o Process overseen/managed by Treasury departments based on the Partnerships UK model
- o Focus on Value for Money drivers

Victoria & NSW led the way with a number of PPP pathfinders

- o Victorian County Court
- o Spencer Street Station Complex

NSW completed first schools PPP in 2002

- o Prison & hospital projects in the pipeline

SA to complete first police stations/courts PPP in 2005

6

New directions

The policy debate over PPPs is largely settled

- o PPP procurement is part of infrastructure planning function
- o Major projects are tested in the budget process for PPP procurement as a matter of course

o Policy direction is now focussed on developing a national market and harmonising policy:

- o address shortcomings in current practices
- o fine tune the procurement process
- o streamline government approval processes
- o introduce PPPs in local government

10

National PPP Forum

The PPP National Forum was established in May 2004 to drive the harmonisation strategy at the State and Federal level.

The National PPP Forum is designed to deliver better coordination, information sharing and support among Australian governments to enable the best project outcomes.

The decisions on key national policy matters at the Forum's first meeting included:

- o development and coordination of a national infrastructure pipeline
- o develop policies to harmonise procurement practices in each jurisdiction

11

Issues & challenges

Transaction costs...

- o government are committed to transparent, competitive bidding processes
- o complex contracting process involves substantial bid costs

... may constrain market growth

- o AUD 6 billion in projects has market fully extended
- o transaction costs impede new entrants
- o policy harmonisation to attract international competition
- o contract standardisation

12

Issues & challenges (2)

Improving public sector procurement skills

- o Formal training in PPP procurement
- o Sharing skills & experience across States

Measuring value for money

- o Public Sector Comparator & project discount rates

Local issues

- o Taxation reform
- o New Accounting Standard

Projects in the market

	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Health	3					1		4
Transport	3					1		4
Education			1					1
Justice				1	1		1	3
Water / Environmental			1			1		2
Accomodation								0
Community		1		1			1	3
Total	6	1	2	2	1	4	1	17

Potential project pipeline

	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Health	3					1	1	5
Transport	3		6					9
Education	1		1	1		1		4
Justice	3			2				5
Water/Environmental			2			2		4
Accomodation	1		1	1	1	1	1	6
Community						2		2
Total	11	0	10	4	1	7	2	35

**PPP Projects in the United Kingdom:
the Successes and Failures**

Mr Igor Rukuts
Managing Director
Northcroft International Operations
UK

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PPP in the UK
The Successes and Failures

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Agenda

Northcroft


- Introduction
- The Statistics
- What are the risks?
- Project Casebooks
- The Successes
- The Failures
- The Jury is Still Out
- Summary
- Ten Point Plan to Success

PPP is not always the answer

Northcroft


- PPP is not a miracle solution to Government needs
- It is not a quick fix solution
- Not all projects work
- Choose the project carefully
- PPP is a procurement methodology which means a culture change

PFI v PPP – is there a difference? Northcroft




PFI Projects have 4 main distinguishing features:

- Significant risk passed to the private sector
- Definition of requirements in output formats
- Long term maintenance is with the private sector
- Contractor's payment is linked to performance and availability




PFI v PPP – is there a difference? Northcroft




PPP Projects have 2 main distinguishing features:

- Public sector is part-owner of the service-providing organisation (part privatisation)
- More flexibility, fluidity and greater uncertainty about the investment over concession period
- Terminology using PPP rather than PFI is more politically friendly
- Often indistinguishable



The UK Statistics Northcroft




Over 500 deals

Capital value of £35 billion

Launched by Conservative Government in 1992

Adopted by Labour Government
90% of deals signed since 1997

Scope of projects very wide





The UK Statistics		Notheroft
<input type="checkbox"/> In operation		
– Hospitals	34	
– Health schemes	119	
– Refurbished schools	239	
– New transport projects	23	
– New fire/police stations	34	
– New prisons/secure units	13	
– Waste/water projects	12	
– Other	167	

Are PPP Projects Working in the UK?		Notheroft
<input type="checkbox"/> Government		
– Yes, good for the Treasury – less public spending – Yes, good for the politicians – more schools and hospitals		
<input type="checkbox"/> National Audit Office		
– Yes, provide value for money... ... generally		
<input type="checkbox"/> Project Sponsors		
– Sometimes, if the project turns out to be the one they wanted!		

Are PPP Projects Working in the UK?		Notheroft
<input type="checkbox"/> Contractors		
– Yes, higher profits, more work – No, heavy investment costs, loss of reputation if things go wrong		
<input type="checkbox"/> Lawyers		
– Yes, certainly... ... there are good fees as deals are complex!		
<input type="checkbox"/> Developers		
– Yes, good new opportunities on land previously unavailable... ... good profits!		



Are PPP Projects Working in the UK? Northcroft

- Consultants/Technical Advisors
 - Yes, more project opportunities, more long term projects
- Users/the general public
 - Sometimes, as long as the service provided is better than before
 - as long as they do not have to pay more!



What do the NAO Reports say? Northcroft

- 37 reports on PFI/PPP
- Generally represent value for money with some exceptions
- Recent report on managing relationships
 - 100 projects reviewed
 - 3 vital factors for success
 - All are aspects of culture and perception:
 - True Partnership
 - Communications
 - Commitment





What do the NAO Reports say? Northcroft

- Before PFI/PPP arrived
 - 70% of Central Government projects were late with cost overruns
- After PFI/PPP arrived
 - Improved to 20% late with cost overruns
 - Only 8% delivered more than 2 months' late





What does the Treasury say? Northcroft




There are VFM improvements

- Hospitals 4 – 8%
- Schools 8 – 15%
- Roads 12 – 18%
- Defence Accommodation 10 – 20%




Traditional v Private Sector Funding Northcroft
Why do it?




Key benefits of PPP for the Government

- Keeps debts down
 - Capital financing is off the public sector balance sheet
 - Defers payments over contract life
- Frees capital to spend on other services
- Retains strategic control in the public sector
- Transfer of risk of performance to private sector
 - Payments on delivery
 - Payments geared to performance
- Focus procurement on whole life cost of project, not just on capital costs
 - Long-term thinking
 - Identification of long term sustainability & viability




Traditional v Private Sector Funding Northcroft
Why do it?



Other benefits of PPP

- Use of output specifications
 - Creative design solutions can result
 - Higher standards of design
- Use of private funders/ investors
 - Creative income generation solutions
 - Creative funding solutions
- Performance based contracts
 - Improves construction process
 - Improves operations delivery



PPP Projects Northcroft

- Experience in the UK has shown PPP projects are not always successful if:
 - Project sponsors are unclear about objectives at Day One
 - Numerous post-tender/ post-contract changes are costly
 - Funding environment is poor
 - Investor confidence is not created
 - Technical Monitoring is poor
 - Risk Management Procedures are not implemented
 - Design creativity is limited

What can go wrong? Northcroft


- Project sponsors often only discover the mistakes that they have made when it is too late!
- This must not happen in Hong Kong

What are the downsides in PPP? Northcroft

- Heavy bid costs (£2m is not uncommon)
- Too much information requested
- Unnecessary new procedures introduced by inexperienced project sponsors
- Long lead-in to financial close
- Decisions being made on lowest cost and not best value
- Unhappy trade unions – jobs are at risk
- Poor project management


What are the downsides in PPP? Northcroft

- Better procurement does not mean better service provision
- General inexperience of project sponsors
 - Technical advisors are the conduits of experience




Conquer the downsides in PPP Northcroft

- There has been a cultural/perception problem which can be destructive in forming partnerships
- Private sector sees public sector as
 - Bureaucrats
 - Don't live in the real world
- Public Sector sees Private Sector as
 - Cunning
 - Unscrupulous




Conquer the downsides in PPP Northcroft

- PPP means:
 - Collaboration and commitment from both sides
 - Change in perceptions
 - Greater trust needed
- It does not mean managing a contract based approach



The ingredients of success	Northcroft
<p>□ What are the ingredients of successful PPP projects?</p> <p>□ A few casebooks may help!</p>	

Project Casebooks	Northcroft
<p>□ The Failures</p> <p>□ The Successes</p> <p>□ The Jury is still out</p>	

Project Casebooks IT Services	Northcroft
<p>IT Projects</p> 	

Project Casebooks IT Services	Northcroft
<p>Some amazingly spectacular failures!</p> <p>Sponsors have included:</p> <ul style="list-style-type: none"> - Home Office - Prison Service - Court Service - National Health Service - National Air Traffic Control - Department of Work and Pensions <ul style="list-style-type: none"> • Child Support Agency 	

Project Casebooks IT Services	Northcroft
<p>What have been the generic failures?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Time overruns <input type="checkbox"/> Cost overruns <input type="checkbox"/> Service delivery poor <input type="checkbox"/> Tendency to over-promise and under-deliver <input type="checkbox"/> 50% of IT projects have been renegotiated 	

Project Casebooks IT Services	Northcroft
<p>Criminal Records Bureau</p> <ul style="list-style-type: none"> <input type="checkbox"/> PPP between Home Office and Capita <input type="checkbox"/> IT system for staff criminal records vetting <input type="checkbox"/> 50,000 applications per year <input type="checkbox"/> Backlog and errors <input type="checkbox"/> Subsidy increased to Capita <input type="checkbox"/> Passed on to users <input type="checkbox"/> Backlog still there <input type="checkbox"/> Quality not quite there yet 	

Project Casebooks IT Services	Northeroft
Customs and Excise	
<input type="checkbox"/> £500m contract to Fujitsu in 2001	
<input type="checkbox"/> IT system for filing VAT returns through the internet	
<input type="checkbox"/> Contract renegotiated to £929m	
<input type="checkbox"/> Policy Changes – 22,000 staff in lieu of 18,000	
<input type="checkbox"/> 1% take-up by users – plan was 50%, rising to 80%	
<input type="checkbox"/> Not there yet!	

Project Casebooks	Northeroft
The Success Stories	

Project Casebooks	Northeroft
Prisons	

Project Casebooks - Prisons	Northcroft
<ul style="list-style-type: none"><input type="checkbox"/> 7 prisons opened 1997 – 2001<input type="checkbox"/> 4500 customers<input type="checkbox"/> 7% of prison population<input type="checkbox"/> 2 under construction opening 2004 – 2005<input type="checkbox"/> Further 1300 inmates	

Project Casebooks - Prisons	Northcroft
<ul style="list-style-type: none"><input type="checkbox"/> Why were these successful?<input type="checkbox"/> All opened on time or early<input type="checkbox"/> All within cost projections<input type="checkbox"/> Fast delivery<ul style="list-style-type: none">- 50% savings- Construction 18 –24 months<input type="checkbox"/> Lower cost<ul style="list-style-type: none">- Prison service paying less capital costs for prisons than 10 years' ago!	


Project Casebooks - Prisons	Northcroft
<ul style="list-style-type: none"><input type="checkbox"/> Good communications between:<ul style="list-style-type: none">- Project Sponsor- Operators- Designers- Constructors<input type="checkbox"/> Work under strict regulatory framework<input type="checkbox"/> Operations over 25 year period<input type="checkbox"/> Funder friendly<ul style="list-style-type: none">- Funders know risks are small- Occupancy near 100% every year!	

Project Casebooks Northcroft

□ The Jury is still out on some projects....


Project Casebooks Northcroft

HEALTHCARE




Project Casebooks - Hospitals Northcroft

- National Health Service statistics
 - 1.2m people employed
 - 25m² property estate
 - £72billion+ replacement costs
- Government wanted 100 new large hospitals (£180m – £250m each) by 2010
- 10,000 new beds
- Also new Diagnostic & Treatment Centres
 - To reduce waiting lists
 - Diagnosis & day surgery




Project Casebooks - Hospitals **Northercroft**

- PFI/PPP Bidding costs very high
- Contractors not interested – too busy
 - Should be 3 bidders
 - Sometimes 1 or 2
 - Breaching EU bidding rules!
- Architects' bidding costs also increasing
 - For £100m hospital - £500k +



Project Casebooks - Hospitals **Northercroft**




- Massive reported cost over-runs on some hospital schemes
- Under-estimations of needs & changing clinical needs, e.g.
 - New 1088 bed super-hospital campus in London combining The Royal Brompton and Harefield Hospital, St Mary's Teaching Hospital and Imperial College's National Heart & Lung Institute
 - Outline business case in 2000 £360m
 - By end 2003 £827m
 - After cost-cutting at end April 2004 £800m



Project Casebooks - LIFT **Northercroft**




PRIMARY HEALTHCARE
LIFT PROGRAMME

(LOCAL IMPROVEMENT
FINANCE TRUST)

Project Casebooks - LIFT	Northcroft
<ul style="list-style-type: none"> <input type="checkbox"/> Providing and improving UK primary care services <ul style="list-style-type: none"> - Doctors' surgeries - Health centres <input type="checkbox"/> Partnership to create LIFT Co. between: <ul style="list-style-type: none"> - Primary Care Trust 20% - Partnerships for Health 20% - Private sector Partner 60% <input type="checkbox"/> 3 phases so far <ul style="list-style-type: none"> - 42 projects approved <input type="checkbox"/> 4th phase starts June 2004 <input type="checkbox"/> 1st worth £1 billion 	

Project Casebooks - LIFT	Northcroft
<ul style="list-style-type: none"> <input type="checkbox"/> Services are not defined in detail <input type="checkbox"/> Investment over time, but not detailed <input type="checkbox"/> Innovation and freedom in partnership 	


Project Casebooks	Northcroft
<p>London Underground</p>   	

Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> □ Aim to secure continued investment in the maintenance and upgrading of the infrastructure of London's Underground □ In 1998 UK Government decided that LU should be turned into: <ul style="list-style-type: none"> - a public sector operating company ('OpsCo') - 3 private sector infrastructure companies ('InfraCo's') investing into and maintaining the infrastructure 	


Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> □ LU believed that by having 3 'InfraCo's': <ul style="list-style-type: none"> - Encouraged more competition - Promoted innovative ideas how to manage the infrastructure - Created a basis for benchmarking performance - Provided a reasonable spread of investment across the companies in the future 	

Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> □ £1.2bn invested by LUL in the Infrastructure prior to PPP □ Infrastructure upgrading works are forecast at circa £7bn □ Bid financing requirements estimated to be between £500m & £750m □ InfraCo contracts cover a period of 30 years, reviewed after 7 years 	


Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> <input type="checkbox"/> 'InfraCo's' entered into 'Performance Based Contracts' and are paid Infrastructure Service Charges <input type="checkbox"/> Performance is measured in five main areas: <ul style="list-style-type: none"> • Availability • Ambience • Amenities & Facilities • Capability • Consistency & Control <input type="checkbox"/> Adjustments are made to charges according to performance. 	





Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> <input type="checkbox"/> Nice idea, but problems are looming <input type="checkbox"/> Maintenance on Jubilee, Northern and Piccadilly Lines commenced 1 January 2003 by Tube Lines <input type="checkbox"/> Maintenance on 2 other contracts for rest commenced 1 April 2003 by Metronet <input type="checkbox"/> Both awarded late due to protracted negotiations 	





Project Casebooks	Northcroft												
<p>London Underground PPP</p> <ul style="list-style-type: none"> <input type="checkbox"/> LU report criticises reliability following PPP <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Failures</th> <th>Incident nos/month</th> <th>%increase</th> </tr> </thead> <tbody> <tr> <td>Trains</td> <td></td> <td>23</td> </tr> <tr> <td>Track</td> <td>76</td> <td>20</td> </tr> <tr> <td>Points</td> <td>46</td> <td>35</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <input type="checkbox"/> 3 recent derailments <ul style="list-style-type: none"> – Loss of income £55m gap in LU funding 		Failures	Incident nos/month	%increase	Trains		23	Track	76	20	Points	46	35
Failures	Incident nos/month	%increase											
Trains		23											
Track	76	20											
Points	46	35											




Project Casebooks	Northcroft
<p>London Underground PPP</p> <ul style="list-style-type: none"> ❑ £32m aggregate fines for failures to hit benchmarks ❑ 6 out of 11 lines failed to meet targets to reduce delays ❑ 66% of network failed service point criteria, e.g. failed to maintain equipment, toilets, cameras, PA systems etc ❑ Tube Lines may face £40m disruption fines following derailments 	

Here are the secrets to PPP	Northcroft
<p>Remember this 10 point plan in order to help you to obtain success on PPP projects</p> 	

Summary Making PPP work	Northcroft
 <ol style="list-style-type: none"> 1. Combine the best public/private sector skills as a true partnership 2. Avoid using PPP's where the public sector already provides high quality, cost effective services <ul style="list-style-type: none"> • Use targeted short-term contracts to resolve isolated functional weaknesses 3. Public sector should retain control of sensitive/high profile activities which can impact reputations 	

Summary Making PPP work Northcroft




4. Ensure all decisions are made on VFM grounds


- Optimum combination of whole-life costs and quality of service provision
 - Focus on outcomes/VFM
 - **Never** on lowest cost!

5. Select the right partner

- The right culture
- Good experience
- Innovative ideas
- Good revenue streams




Summary Making PPP work Northcroft




6. Set clear objectives and definitions of operational requirements in bid documents and contracts

7. Monitor the whole design, procurement, construction and operations process



Summary Making PPP work Northcroft




8. Undertake regular risk appraisals

9. Appoint experienced technical advisors

10. Control post-contract changes

- Always more cost-effective to get the requirements right first time



A Critical Review of Current PFI Projects in Japan

Mr Akio Yamashita
Consultant
Sato Facilities Consultants, Inc.
Japan

HKIS 20th Anniversary Conference 2004 May 29, 2004

A Critical Review of Current PFI Projects in Japan

Akio Yamashita
Sato Facilities Consultants, Inc.

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Context of Japanese PPP

◆ **Economic stagnation in Japan**

Issues

- Revitalization of Economy
- Solution to Financial Deficit
- Creation of New Business Opportunities
- Provision of Employment

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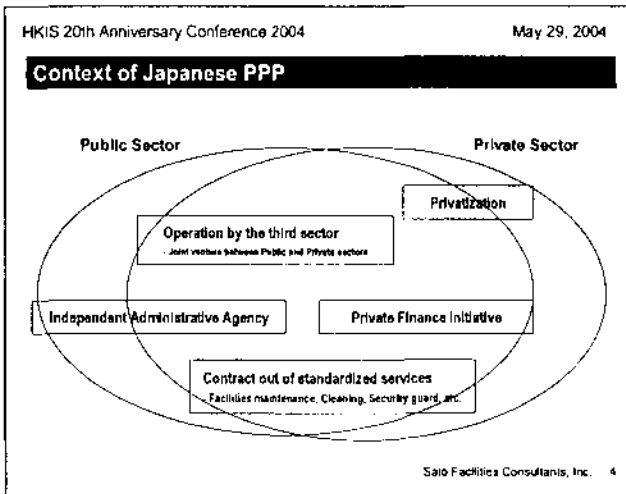
Context of Japanese PPP

**“Structural Reform of the Japanese Economy :
Basic Policies for Macroeconomic Management”**
by Koizumi in 2001

Seven Programs of Structural Reform

1. Privatization / Regulatory Reform
2. The “Support Challengers” Program
3. Strengthening Welfare and Insurance
4. Doubling Our Knowledge Stock
5. Lifestyle Revolution
6. Local Independence and Revitalization
7. Fiscal Reform

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Introduction of PFI to Japan

◆ **Context**

- Critical condition of Public finance
- Demand for Public investment to boost economy

◆ **Enactment of Laws**

July 1999	"Law relating to promotion of realization of Public facilities by using private funds" - PFI Law
March 2000	"Introduction of PFI to Local Government" - Notice from Ministry of Home Affairs to Governors and Mayors
December 2001	Amendment to PFI Law

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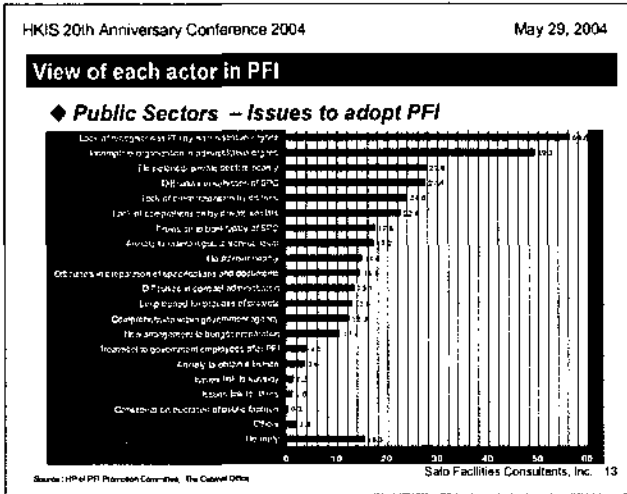
HKIS 20th Anniversary Conference 2004 May 29, 2004

Introduction of PFI to Japan

◆ **Guidelines**

1. Guidelines for Risk Allocation in PFI Project (Jan. 2001)
2. Guidelines for Enforcement and Process of PFI Project (Jan. 2001)
3. Guidelines for Value for Money (July 2001)
4. Guidelines for Contractual Issue (June 2003)
5. Guidelines for Monitoring (June 2003)

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- HKIS 20th Anniversary Conference 2004 May 29, 2004
- View of each actor in PFI**
- ◆ **Private Sectors – Facing Issues**
- **Forming a new business model**
 - Acquisition of competence for the task in the different business arena to provide maintenance and operation services in the life cycle of facilities
 - Cross industrial collaboration
 - **Changeover of the mindset**
 - Hard => Soft => Solution
 - Improvement of creativity and flexibility, in addition to a competitive price and efficiency
 - Acquisition of ability to aim directly for end-users' satisfaction
- Sato Facilities Consultants, Inc. 14

- HKIS 20th Anniversary Conference 2004 May 29, 2004
- View of each actor in PFI**
- ◆ **Citizen and users**
- **No applause, no criticism**
 - PFI is still new, yet to become public
 - Majority of current PFI projects are without administrative services directly to citizen
 - Obligated to be aware of usage of taxes and public services provided
- Sato Facilities Consultants, Inc. 15

HKIS 20th Anniversary Conference 2004

May 29, 2004

View of each actor in PFI

◆ **Consultants**

● **Role and prospect**

- Adviser for the process of PFI project
- Third party to assess and evaluate propriety of a project scheme, VFM and proposals
- Monitor for management and operation of projects

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Thank you

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URL: <http://www.sfc-net.co.jp>

**Public Private Partnerships in Canada:
Successes, Opportunities and Challenges**

Keynote Speaker : Dr A. Scott Carson

Director

The Canadian Council for Public-Private Partnerships

Dean

School of Business and Economics

Wilfrid Laurier University

Waterloo, Ontario, Canada

Public Private Partnerships in Canada: Successes, Opportunities and Challenges



Dr. A. Scott Carson, Dean
School of Business & Economics
Wilfrid Laurier University
Waterloo, Ontario, Canada



and
Director, Canadian Council for Public-Private Partnerships

The Canadian Council for Public-Private Partnerships

A national non-partisan, non-profit organization founded on the belief that the capacity of government to meet its current and future infrastructure and service obligations can be enhanced through public-private partnerships.



The objective of the Council is to foster innovative forms of cooperation between the public sector, at all levels of government, and the private sector for the benefit of all Canadians by:

- Encouraging public-private partnerships
- Providing information on public-private partnerships
- Sponsoring conferences and seminars
- Stimulating public and private sector dialogue
- Educating the public
- Conducting research on key issues



Public Private Partnership (P3) in the Canadian Context

"A cooperative venture between the public and private sectors, built on the expertise of each partner, that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards."

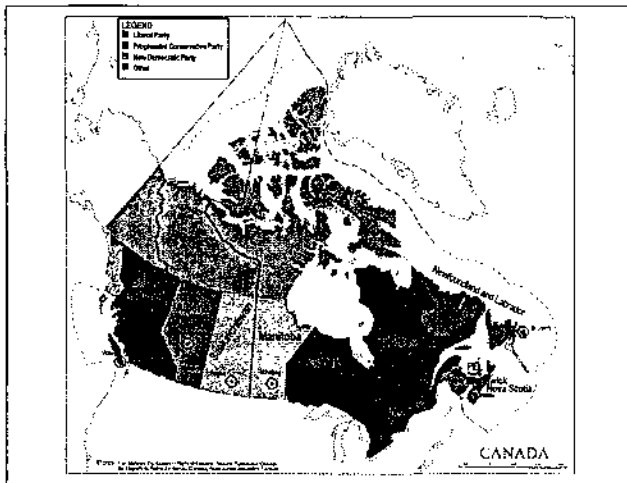
- Unlike U.S.A., "privatization" and "public-private partnership" are not interchangeable



P3s in Canada

- Separate levels of government doing projects
 - Federal
 - Provincial: 10 provinces, 3 territories
 - Regional/municipal
- Multiple procurement processes
- Three main political parties at federal and provincial levels (plus 2 Quebec separatist parties: one federal, other provincial)
 - Political parties of the same or similar name are not connected at federal and provincial levels

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Common Reasons for P3s in Canada

1. Risk transfer/sharing
 - a) Allocation of risks to the partner best able to mitigate or manage them
 - b) Level of risk transfer is dependent upon P3 structure

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P3 Structures and Risk

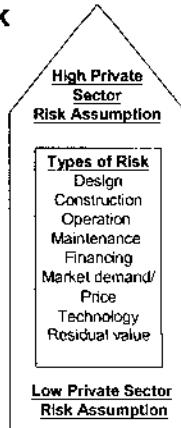
Divestiture (privatization) of public assets: sale or long concession (50-99 years)

Concessions: long leases (20-30 yrs.) with responsibility for maintenance and capital exp.

Design, Finance, Build, Operate, Transfer: private partner creates the project and eventually transfers back to public partner

Leases: private partner operates, maintains and manages facility. Collects revenues from end users

Operation, Maintenance, Management Contracts (OMM): Public sector owns facility. Transfers operations to private partner



Risk Transfer/Sharing

TYPICAL INFRASTRUCTURE PROJECT: CONCESSION

Risk Category	Public Sector	Constructor	Operator	Private Lender	Private Owner
Environmental	X	O			O
Regulatory/Political	X			O	O
(Past) Latent Defects	X	O	O	O	O
Development		X			X
Design		X		O	
Construction		X		O	
Injury/Damage	O	X	X		X
Usage			X	O	X
Operation			X	O	X
Maintenance			X		X
Inflation				O	X
Interest Rate				O	X
Currency				O	X
Revenue			O	O	X
Taxation					X
Residual Value				O	X
Technological Obsolescence			O		X

X - Principal Risk Taker O - Secondary Risk Taker

2. Economic Development

- a) Collateral development/revitalization in proximity to the P3 project
- b) Growth of private sector expertise
- c) Encouraging growth of strategic private sector industries
- d) Encouragement of international investment capital

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3. Financial Benefits to Governments

- a) Reduction of operating costs of the project
- b) Increasing municipal tax base
- c) Reducing/avoiding increases in government debt

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4. Service Delivery Improvement

- a) Process innovations
- b) Profit driven efficiencies
- c) Acquiring expertise not available in the public service

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Canadian P3's in Process

Location	Sector	Model
Alberta	Justice/Corrections	Design-Build-Finance-Operate
Alberta	Education	Design-Build-Finance-Operate
Alberta	Transportation	Design-Build-Operate & Maintenance
British Columbia	Healthcare-Services	To be determined
British Columbia	Healthcare	Design-Build-Finance-Operation & Maintenance
British Columbia	Healthcare	Design-Build-Finance-Operation & Maintenance
British Columbia	Education	To be determined
British Columbia	Transportation	Design-Build-Finance-Operate
British Columbia	Transportation	Design-Build-Operation & Maintenance
British Columbia	Transportation	Design-Build-Finance-Operate
British Columbia	Transportation	Design-Build-Finance-Operate
British Columbia	Transportation	Design-Build-Finance-Operate
British Columbia	Environment/Water	Design-Build-Finance-Operate
Ontario	Healthcare	Design-Build-Finance-Operate
Ontario	Healthcare	Design-Build-Finance-Operate
Ontario	Transportation	Design-Build-Finance-Operation & Management

Challenges Facing P3s in Canada

- Public discomfort with private sector delivery of public goods – especially education and healthcare
- Confusion created by equating P3s with “privatization”
 - Private sector delivery versus private sector infrastructure and public sector delivery

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- Political opposition and party ideology
- Union concerns about wages and job protection
- Debate over lowest financing costs: public versus private borrowing
- Canadian multilevel government structure and the development of common best practices

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Public Private Partnerships in Hong Kong

Mr Daniel Liew
Partner
Head of Energy and Major Projects
East Asia
Simmons & Simmons

**Public Private Partnerships
in Hong Kong**

Hong Kong Institute of Surveyors
Annual Conference

29 May 2004 Hong Kong

Daniel Liew
Partner
Head of Major Projects

PPPs in Hong Kong

- PPPs are arrangements where the public and private sectors both bring their complementary skills to a project, with varying levels of involvement and responsibility, for the purpose of providing public services or projects

PPPs in Hong Kong

- Main characteristics
 - The government defines the quality and quantity of services, and the time frame in which the services are to be delivered
 - The private sector is responsible for delivering the defined services while the government is mainly involved in regulation and procurement
 - A long term relationship is established, typically between 10 years and 30 years, depending on the nature of the facilities, assets or services to be delivered
 - Responsibilities and risks are allocated to the party most able to manage them
 - The private sector finances the project (wholly or in part) and recoups its investment from charges or payments made during the life of the concession or contract

PPPs in Hong Kong

The private sector is encouraged and use its innovation and flexibility to deliver good quality and cost-effective services throughout the life of the project

The different functions of design, construction, operation and maintenance are integrated

Benefits of PPP

- Value for money
- Utilising private sector funding for public sector projects
- Harnessing private sector innovation and expertise
- New investment opportunities for private sector
- Transfer of risks

Government's Fundamental Role in PPPs

- Set policy and define objectives
- Identify PPP opportunities
- Decide amongst competing priorities for public resources
- Identify and propose the allocation of risks
- Determine and manage reward mechanisms
- Identify its needs in terms of output specifications
- Ensure transparency and probity in the procurement process

Government's Fundamental Role in PPPs

- Ensure value for money is achieved
- Ensure the achievement of standards for health, safety and environment
- Establish, monitor and enforce the levels of services
- Perform regulatory functions
- Safeguard the interests of customers and the general public

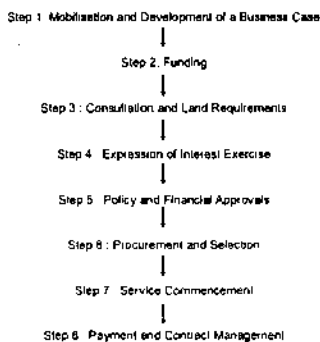
Private Sector's Fundamental Role in PPPs

- Propose innovative and cost effective options in delivering the required services
- Achieve the pre-determined levels of performance in service delivery with its expertise and experience
- Provide private funding
- Provide initiatives to expand market and generate income
- Share the risks and provide effective risk management
- Bring commercial practices to enhance efficiency

Types of PPPs

- Financially free-standing projects where the services are provided for the use of the public which pays the private partner direct. Examples of these projects are toll-charging road, bridges and tunnels
- Projects which provide services to the public, but the payments to the private sector investor involve a mix of public subsidy from the government and end-user charges imposed on users of the services. Examples of such services are sport centres, where the consumer pays a subsidised fee for the use or hire of facilities and equipment
- Services provided directly to the government sector which pays the private for those services. Examples of this include the provision of prisons, government office accommodation and hospitals

Process of Establishing a PPP in Hong Kong



Financial Issues

- ❑ Where does the government funding come from?
- ❑ How will a PPP project be paid for?
- ❑ Would the government impose a "performance bond" on the private sector investor in the contract?
- ❑ Would the government require additional security?
- ❑ How can PPPs be more cost effective when private sector borrowing costs are higher?
- ❑ Can private sector investor retain revenue received from the public using the facility/service? – Public Finance Ordinance (Cap 2)
- ❑ Refinancing gain clause?

Legal Issues in PPPs

- ❑ Legal basis – the government has constitutional and common law powers to make commercial contracts, including PPP contracts
- ❑ Powers and duties of the government are subject to restrictions or enhancements in legislations
- ❑ Delegation of power to the private sector
- ❑ No enabling legislation in Hong Kong (unlike the United Kingdom) – the government relies on constitutional power to contract with private sector
- ❑ No standard form of PPP contracts in Hong Kong

Legal Issues in PPPs

- Preparing standard PPP contract for the Hong Kong Government
 - Service requirements
 - Maintenance
 - Performance monitoring
 - Price and payment mechanism
 - Termination
 - Dispute resolution
- Structure of the project company
- Tender process

Land Issues in PPPs

- Treatment of land as an asset in a PPP project is dealt with on a case-by-case basis
- Depending on the length of tenure and nature of the service involved in a PPP project, the disposal of land can be by way of licence, short term tenancy (STT), long lease in the form of private treaty grant (PTG) or an enabling ordinance
- Private sector investor can be granted ownership of land, but upon expiry or early termination of the PPP contract, the land will be reverted to the government
- No sale, sublet or other disposal of the land or reduction of its economic value without the approval of the government

Examples of PPP Projects in Hong Kong

- There are not many examples of completed PPP projects in Hong Kong - major infrastructure facilities such as the cross-harbour and other tunnels developed using the Build, Operate, Transfer approach
- A considerable number of projects in Hong Kong are at different stages of development, or have had feasibility studies conducted
 - catenng services for Hospital Authority
 - Route 3
 - West Kowloon cultural district
 - Sports and recreation facilities
 - Floating refuse collection

Examples of PPP Projects in Hong Kong

- Two pilot PPP projects by the Home Affairs Bureau
 - ice sports centre, tenpin bowling centre and town park in Tseung Kwan O
 - leisure and cultural centre in Kwun Tong
- Largest PPP project in Hong Kong to date - HK\$24 billion development plan for West Kowloon cultural district (40-hectare)
 - invitation of proposals published in September 2003
 - inviting bids comprising technical, operational, maintenance, management and financing proposals – deadline 19 March 2004
 - facilities include the canopy, arts and cultural venues, with three theatres in a single building and museums, retail and entertainment outlets, offices, hotels, residential units, government facilities, automated people mover, piers and associated infrastructure

PPP Experience Sharing

- Extensive PPP project experience across a broad range of industry sectors
- Extensive PPP project experience worldwide
- Multidisciplinary teams of lawyers needed for PPP projects
- One of the top 5 law firms in the UK for PFI/PPP
- The Lawyer Awards – Projects/PFI Team of the Year 2003

PPP Experience Sharing

- First PPP waste to energy project in Pudong, Shanghai, China
- Various Ministry of Defence PPP projects, United Kingdom
- Advising the Greek Government on the construction of six motorways for 2004 Olympics and a tram system in Athens
- Channel Tunnel High Speed Rail Link, United Kingdom and France
- First Italian education PPP - a school in Bondeno
- Urban redevelopment of city centres in Italy and the Netherlands

PPP Experience Sharing

- Healthcare PPP in Scandici, Italy
- South Tees General Hospital, United Kingdom
- "Project Prime" office accommodation for Department of Social Security, United Kingdom
- First Shadow Toll Motorway in Portugal
- First PPP road project (A59) in the Netherlands

Public Private Partnerships in Hong Kong

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Doc No 126071

PPP Progress in the United States

Dr Richard Larew
Former Director
AACE International
Associate Professor Emeritus
Department of Civil and Environmental Engineering and Geodetic
Science
The Ohio State University
USA

PPP Progress in the United States

Richard E. Larew, Ph.D., P.E., L.S., C.C.E

**Conference on Public Private Partnerships (PPP)
Hong Kong Institute of Surveyors
J.W. Marriott Hotel
Hong Kong
29 May 2004.**

HKIS PPP 2004 / Larew

1

Greetings from the United States

It is my pleasure to express to you and other members of the Hong Kong Institute of Surveyors the best wishes of three organizations headquartered in the United States:

- AACEI www.aacei.org
- NCPPP www.ncppp.org
- PMICOS www.pmicos.org

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2

AACE International

- Association for the Advancement of Cost Engineering International
- Founded in 1956
- 5500 Members in 78 Countries
- Has interfaced with the Hong Kong community over a period of many years especially through the work of the International Cost Engineering Council of which AACEI is the largest single member.

HKIS PPP 2004 / Larew

3

AACE International (cont'd)

- "We welcome the HKISPPP initiative and would welcome your attendance at our Annual Meetings.
- "We will be signing a memorandum of understanding with the Royal Institute of Chartered Surveyors at our Annual Meeting next Month in Washington, DC.
- "We are well aware of the quantity surveying profession worldwide.

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4

AACE International (cont'd)

- "We wish you continued success and invite you to see the kinds of work AACE is doing which in many cases is very similar to your interests."

Barry McMillan
 Executive Director
 AACE International

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5

NCPPP

- National Council for Public-Private Partnerships
- Founded in 1985
- A non-profit organization representing both the public and private sectors.
- Promotes the use of public-private partnerships for improved delivery of public services and infrastructure.

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6

NCPMP (cont'd)

- Major spokes-persons for the concept of Public-Private Partnerships in the United States.
- Addresses issues related to the Office of Management and Budget, Circular No. A-76 (Revised), May 29, 2003.

Richard Norment
 Executive Director
 NCPMP

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7

PMI College of Scheduling

- Project Management Institute College of Scheduling
- Founded in 2003
- Its purpose is to promote better scheduling of projects around the world.
- There is an opportunity to provide leadership concerning the scheduling of PPP Projects.

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8

PMI College of Scheduling (cont'd)

"I'd like to invite anyone interested in promoting better scheduling of projects around the world to join the Project Management Institute's new College of Scheduling."
 "We just finished our first International Conference in Montreal in April with 230 attendees from around the world. We currently have members from 45 countries."

Stuart Ockman
 President
 PMI College of Scheduling

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9

Interest in PPP in the U.S.

- I often search the AACEI web site for articles by cost managers, planners, cost engineers, schedulers, estimators, value engineers, and others. It is a site where one easily finds information on topics of interest in the fields of cost engineering and cost management.
- I searched all AACEI proceedings and Journal articles for papers or articles on the topics of "PPP" or "Public Private Partnerships".
- Number found: None!

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Interest in PPP in the U.S. (cont'd)

- None of the papers at the recent PMICOS Montreal meeting addressed PPP issues.
- On the other hand, the current "IN THE NEWS" section of the NCPPP web site reports that, "... requests for NCPPP to present the story of public-private partnerships to ... other groups has increased significantly...."

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U.S. PPP Successes?

- At the Federal level there are reports of successful applications of PPP from agencies such as the Center for Disease Control, and the U.S. Fish and Wildlife Service.
- At the State and Local level there are reports of successful applications of PPP in school districts, Transportation Departments, and Medical Care facilities.

HKIS PPP 2004 / Larew 12

U.S. PPP Successes? (cont'd)

- PPP is not generally accepted in the U.S.
- PPP advocates complain that it is difficult to secure needed legislation while the Federal Government is directing a very large portion of its resources and leadership to:
 - recovering from the attacks on the World Trade Center and Pentagon;
 - defending against other possible terrorist attacks; and
 - conducting the ongoing war in Iraq.

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13

Need for Better Models

Your institute has some outstanding materials, e.g., the section at: www.hkisppp.org/aboutpppm.html

The figure showing the Shareholders, Special Purpose Vehicle, and Public Sector Client is an excellent graphic to accompany the list of action items in the Project Initiation, Procurement, Development, and Delivery Stages.

A similar figure is included in *Principles of Project Finance* by E. R. Yescombe

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14

From E. R. Yescombe, *Principles of Project Finance*, Academic Press, 2002

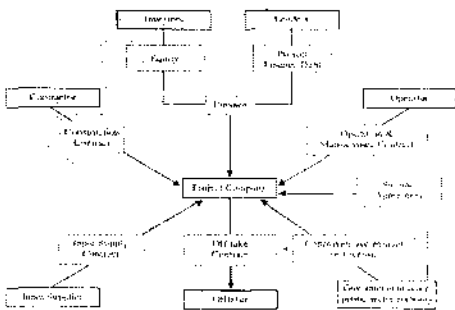


Figure 2.1 Simplified project finance structure

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15

The Teaching of New Approaches

- In the United States we have no means for assuring that present or future professionals will be taught new approaches as depicted in your materials and in the Yescombe text.
- I assume that it is also true that you can not assure assuring the teaching of such materials in your country.

HKIS PPP 2004 / Larew

16

The Teaching of New Approaches (cont'd)

- We can, however, offer to assist faculty members who wish to begin to offer courses that will teach these new approaches, i.e.,
 - Public Private Partnerships; and
 - Project Finance.
- Thank you for the opportunity to be with you during this exciting conference

HKIS PPP 2004 / Larew

17

Standardisation for PFI Contract

Mr Rupert Sydenham
Partner
Lovells
Hong Kong

Introduction

It is a complaint frequently made that bidding for and negotiating PFI projects in the UK takes too long and costs too much. It is undoubtedly true that early deals suffered from these drawbacks. Factors contributing to the high bid costs and long tender periods were:

- (a) the inherent complexity of the contractual arrangements;
- (b) lack of familiarity of the parties involved (both public and private sector) in implementing deals in this way;
- (c) non-standard documentation with unrealistic risk allocation.

The need to promote a common understanding of the main risks encountered in a standard PFI project and to reduce bidding costs was acknowledged very early on in the history of PFI. Standardisation of contractual terms and conditions was seen as a way of addressing these issues. In practice, the steps taken towards standardisation in the UK have proven a significant help in the implementation of PFI projects. This paper summarises those steps and the impact standardisation has had on the UK PFI market, with reference to the three versions of the "Standardisation of PFI Contracts" guidance document ("SoPC") published in the UK¹.

Relevance to Hong Kong

Looking at standardisation in the UK is a useful exercise for other jurisdictions considering implementing PFI deals, such as Hong Kong, because more PFI type deals have in fact been done in the UK than elsewhere. Standardisation in the UK is helpful in Hong Kong because:

- (a) the route followed in the UK to achieving greater degrees of standardisation in PFI contracts provides some useful lessons;

¹ It should be noted that SoPC sets out the following assumptions as applying to the guidance:

- the party contracting with the public sector is a special purpose vehicle with sub-contractors providing actual performance on its behalf
- the project involves some development or a construction phase, followed by an operational phase during which the full service is provided
- the project is wholly or partly financed by limited recourse debt.

The guidance is therefore aimed at PFI projects rather than public private partnership ("PPP") projects in any wider sense.

- (b) many of the results of the standardisation process may be directly applicable in Hong Kong and provide a ready source of learning and understanding.

Of course, it will not necessarily be possible to import standardisation from the UK directly into other jurisdictions, for example Hong Kong, without modification. Inevitably there will be local factors affecting the suitability of the standards. The factors may arise from different local legal conditions (for example, the manner in which land is held in Hong Kong or the different regulatory arrangements in relevant industry sectors) but may also arise simply from the local market conditions, including for example the relative willingness of the public and private sector to enter into deals structured along the lines of a PFI project.

Similarly, it is perhaps premature to be talking of standardisation in Hong Kong before any true PFI type deal has been implemented². Just as was the case the case in the UK, in early PFI type deals in Hong Kong, both the public and the private sector will inevitably be feeling their way to some extent to find a mutually acceptable approach. It may be a while before we can really talk of standardisation of PFI type contracts in Hong Kong.

Nevertheless, there is no doubt that the learning generated in the UK about PFI and particularly the results of the UK's progress towards standardisation will be hugely beneficial for the implementation of projects along PFI lines in Hong Kong (indeed the Hong Kong Government Efficiency Unit's guide "Serving the Community by using the Private Sector, an introductory guide to Public Private Partnerships" published in August 2003 no doubt draws significantly on the UK experience).

Lessons from Standardisation in the UK

There are a number of important lessons that have been learned during the development of standardisation in the UK.

² Hong Kong is no stranger to PPP in the wider sense, and the cross harbour tunnel BOT projects are frequently cited as examples of private sector involvement in public infrastructure; arguably these projects differ from a typical PFI project in that the revenue stream over the operational phase derives purely from the end user (the vehicle drivers) rather than the Government.

One lesson is the necessity, if PFI projects are to be implemented efficiently and effectively over a wide range of industry sectors, for a central body to guide the public sector in the process. The central body serves as a source of knowledge for the various branches of the public sector and is available to help negotiate difficult points, both internally within the public sector and externally, in the public sector's dealings with the private sector. In Hong Kong, we are fortunate in having such a central body already in place, which currently takes the form of the Government Efficiency Unit. The Government Efficiency Unit has been active in promoting the benefits of PFI to government departments and has demonstrated excellent understanding of PFI principles. Significantly through the efforts of the Government Efficiency Unit, understanding appears to be spreading through other parts of Government.

A second lesson is that for such a body to be truly effective in driving standardisation, it must be closely aligned with the body having power over money. In the UK, before this point was appreciated, the unit hovered around (as we shall see later), but now sits with the UK Treasury. This is effective because if government departments do not follow the guidelines that have been established in the UK, they will not receive government funds for their projects. A contrasting example is provided by the emerging market in Germany. There the equivalent of the Efficiency Unit sits in the Ministry of Public Works, and it is proving harder to ensure that the various public authorities follow the guidelines established by the unit (in Germany the difficulty of ensuring compliance is compounded due to there being state level governments as well as a central government).

A third important point militating in favour of a central body responsible for standardisation is that responsibility for progressing towards standardisation and "ownership" of the process is then clearly allocated. In this way progress towards standardisation is far more likely to occur than if individual departments are left to pursue their own plans without direction or control. That is not to say that specific steps should not be taken in individual sectors in parallel with general standardisation. This is a point we shall come back to later.

Development of Standardisation in the UK

In the UK, the original unit responsible for developing standardisation was called the Private Finance Panel. This body, which was a quasi-government body,

comprised representatives of the private and public sector. Subsequently a new body was established called the Treasury Taskforce. This body was a government body, but included seconded lawyers and business people as well as civil servants. The composition of both these bodies reflected an understanding of the importance of obtaining private sector involvement in the development of standardisation to ensure that the positions reached would be acceptable in the market. As a firm, we seconded a number of lawyers to the Treasury Taskforce who were involved in producing the early guidance on standardisation.

The first version of the guidance on standardisation produced by the Treasury Taskforce consisted of discussions of a number of the key issues arising in PFI projects and some model clauses. The guidance was not a standard form. As a result, in practice the guidance left much room for debate in the application of the principles set out in it. Although, as mentioned, there was private sector involvement in the Treasury Taskforce, this early version of the guidance included to a significant extent the Treasury's views as to the appropriate allocation of risk in PFI project. The trouble was that at this time the principles, both of risk allocation in PFI projects and of the application of the guidance, were not fully bedded down. In practice, when negotiating projects, people would have regard to the guidance but would often still argue points covered by the guidance. Nevertheless, the guidance was a big leap forward in simplifying negotiations.

In April 2000, the Office of Government Commerce ("OGC") assumed responsibility for the guidance from the Treasury Taskforce, as part of the OGC's remit for central government PFI policy. At around that time, the Treasury Taskforce's projects arm transferred to Partnerships UK plc, a joint venture between the public and the private sectors. The OGC produced version 2 of the guidance, with assistance from Partnerships UK plc.

In preparing the second version of the guidance, which was published in July 2002, the OGC took the sensible approach of issuing a draft for consultation. In fact, they then undertook a process of negotiating the guidance with the private sector. This was difficult to do out of the context of a project, and a representative sample of the private sector was therefore required. Two major groups were established, the first comprising a body of senior lenders (i.e. banks providing debt for PFI projects) and the second comprising a mixture of lenders

and sponsors (i.e. persons providing equity for PFI projects). The second body was (and is) known as the "PPP Forum". In the development of version 2 of the guidance, Lovells represented the PPP forum in negotiations with the OGC.

Due to this process of negotiation, version 2 of the guidance was a reasonably well settled document and was generally well accepted in the market place. In practice, our firm's experience on acting on projects was that people would look at the guidance to see if they were complying with the guidance and would generally only negotiate project specific areas and some of the more contentious areas covered by the guidance. The publication of version 2 led to a much greater level of standardisation in the implementation of PFI/PPP projects than version 1.

On 1 April 2003, responsibility for PFI policy was transferred from the OGC back into Treasury (where it remains), reflecting the point made earlier about the desirability of associating policy with the government body providing finance. Partnerships UK plc continues to assist the Treasury in the implementation of SoPC.

In April of this year (2004), the Treasury issued version 3 of the guidance. Unlike version 2, the third edition has not been the subject of formal advance market consultation and negotiation (or at least to nowhere near the same extent as version 2). This is probably a reflection of Treasury's view that changes have been tested in the market on a reasonable sample of closed deals. Version 3 is a development of version 2, rather than a radical departure, and introduces a relatively small number of changes.

Implementation of SoPC

One of the main criticisms of the guidance is that it is not a standard form contract, but merely provides guiding principles and some model clauses. In practice, this approach leaves significant "wriggle" room in negotiations. For example, parties have been known to rely on narrow interpretations of the guidance in arguing that the guidance does not apply. An alternative strategy that some branches of the public sector have adopted is to incorporate the model clauses and the majority of the guidance principles, so arguing that their documents are compliant with the guidance, but then to add extra clauses which are outside the spirit of the guidance.

A key criticism is that there has been insufficient enforcement of the guidance on the public side. Whilst there have been cases in which the public sector has complained that the private sector participants in a project have attempted to negotiate away from risks that they should properly bear, for their part the public sector have in a number of cases failed to follow the principles in the guidance. It is important to note that the guidance is intended as a compromise between the public and the private sector. It is not intended as a means of ensuring that an unreasonable degree of risk is transferred to the private sector. For standardisation to work, the Treasury considers it important that the public sector should not be seeking to negotiate "better" positions in individual projects.

Potentially the most significant change with respect to the later versions of the guidance is the greatly increased emphasis from the Treasury on its commitment to enforcing a standardised approach by procuring public sector authorities. In particular, the Treasury has stipulated in a letter dated 29 April 2004 in relation to version 3 of the guidance that:

- (a) the guidance must be followed for all projects that have not reached commercial close by 14 May 2004. This is the case even for projects at a very late stage in the process. Any exceptions require specific Treasury approval;
- (b) compliance with the guidance, or specific approval of a derogation by treasury, is expressly a condition of Final Business Case approval;
- (c) public sector authorities may seek advice on derogations from the

guidance but must fund the costs of doing so themselves, given the assumption against derogations;

- (d) from 14 May 2004, copies of all signed deals are to be provided to Treasury, for further monitoring of compliance.

The Treasury has also promised that further detailed procedures for approvals will follow.

Further Standardisation - Industry Standard Forms

Whilst the objectives of ensuring compliance with standardisation are good ones, practically it is extremely difficult to ensure that contracts, which can run to 1,000 pages, are compliant. For compliance to be really effective, standard forms are required. These make it easy to monitor whether or not there have been significant changes from the guidance, because the changes from the standard form can be easily identified.

To date, the probably the best developed form and only one to have been used on a significant number of projects, is the NHS Executive's standard form used in hospital projects. Lovells prepared the first draft of this form for NHSE which has been developed further in house by the NHSE drawing from further practical experience in implementing numerous projects. The standard form is available on the internet and is currently being updated to comply with the recent SoPC.

The other sectors where standard forms have been developed are the roads and prisons sector. However, there have been fewer completed projects in these sectors. Some efforts have also been made to produce a first draft for the light rail sector, but in that sector principles generally remain very unsettled.

In addition to producing the latest guidance, the Treasury is pushing industry sectors to promote their own standard forms. There is no doubt that well established specific industry standard forms should dramatically reduce bid costs.

Standardisation of Specifications

So far the guidance produced has focussed on the legal terms and conditions of the contract. There have been some proposals for standardisation of specifications and design in limited areas, where people have felt, for example, that the process might be accelerated if contractors were required to select from a number of sample approved designs. However, many contractors consider this an unsatisfactory approach because it removes scope for private sector innovation and the private sector's ability to manage and balance whole life costing.

Conclusion

Significant steps have been made towards standardisation in the UK. The learning in the UK and the guidance on standardisation that has been produced will greatly assist implementation of PFI projects in Hong Kong. However, inevitably there will be aspects of standardisation in the UK which are not directly transferable and where the Hong Kong market will have to feel its own way.

Hong Kong has the advantage of a central body, the Government Efficiency Unit, committed to promoting PFI principles to government departments and providing learning for the departments. If and when PFI projects are implemented in Hong Kong in significant numbers, it may be appropriate to provide greater teeth to the Efficiency Unit's guidelines, for example by linking compliance with funding.

Land Issues in PPP Projects

Mr Yu Kam Hung
Chairman of GP Council
The Hong Kong Institute of Surveyors
Executive Director
CB Richard Ellis

**Public Private Partnerships
HKIS 20th Anniversary
Conference 2004**

“Land Issues in PPP Projects”

29th May 2004

By Mr. Yu Kam Hung

**Public Private
Partnerships = P3**

Presentation Overview

- I. Land Acquisition in PPP Approach compared with Traditional Approach
- II. Land Development Process in PPP Approach compared with Traditional Approach
- III. Basic Characteristics of Public Partner
- IV. The Future of the PPP Approach in Land Development

I. Land Acquisition in PPP Approach compared with Traditional Approach

Land Acquisition



- Location
- Scale
- Land Value
- Clauses in the Lease
- Time Needed

Location

- Favourably located land can be utilized as the public partner has the full knowledge of the land available

e.g. 1. URA Project

2. Integrated Arts, Cultural and Entertainment District at West Kowloon Reclamation Area

Location (cont'd)

- Lands in remote locations or reclaimed land can also be available ----- fully utilized all the resources

- e.g. 1. Disneyland on Lantau Island
 2. Cyberport in Pok Fu Lam
 3. Pier Project in the Airport



香港迪士尼樂園

Scale

- Usually involve larger scale of land compared with private development

- e.g. 1. Integrated Arts, Cultural and Entertainment District at West Kowloon Reclamation Area
 2. Disneyland
 3. Cyberport

香港迪士尼樂園



Scale (cont'd)

- Private partner with chance to get involved in Government projects



- e.g. 1. Developments of Leisure and Cultural Facilities in Kwun Tong and Tseung Kwan O by Leisure and Cultural Services Department
 2. Pier Project in the Airport



Land Value

- Land premium assessment
- Reduced land premium or no premium is needed for public projects.
- e.g. 1. Disneyland
 - Government provides the land with land value about \$4 billion to the Project as equity injection

香港迪士尼樂園

Land Value (cont'd)

- Government reduces capital investment (lower start-up fund)
- Private partner reduces financing cost and enhance cash flows

Clauses in Lease

- By negotiation rather than solely determined by Government
- More interaction ---- more favourable clauses can be achieved
- Clauses fulfill the expectations of all parties

Clauses in Lease (cont'd)

- Enhancing development flexibility
- Enhancing development parameters such as development density, environmental protection and users

Time Needed

- Approval process is accelerated
e.g. 1. URA section in Lands Department is set up to deal with URA cases
- More efficient



II. Land Development Process in PPP Approach compared with Traditional Approach

Land Development Process

- Public partner takes up the responsibility for land resources and land administration procedure
- Private partner takes up the responsibility for design, construction, financing and operation

Land Development Process (cont'd)

- Either partner involves in the process of management and maintenance
- PPP Approach = utilize private resources to provide public services/ infrastructure developments
- However, sometimes difficult to assess the development time due to political problems

e.g. 1. URA Projects



III. Basic Characteristics of Public Partner

Basic Characteristics of the Public Partner

- With power to provide capital and resources (For example: land)
- With statutory power (e.g. URA with Land Resumption Ordinance)
- With good credit rating => lower financing costs



IV. The Future of the PPP Approach in Land Development

Future of the PPP Approach

- Recently the Joint Development tender submission of the URA Johnston Road Project in Wan Chai,
 - 32 developers expressed their interest
 - 14 tender offers have been received among 28 qualified developers



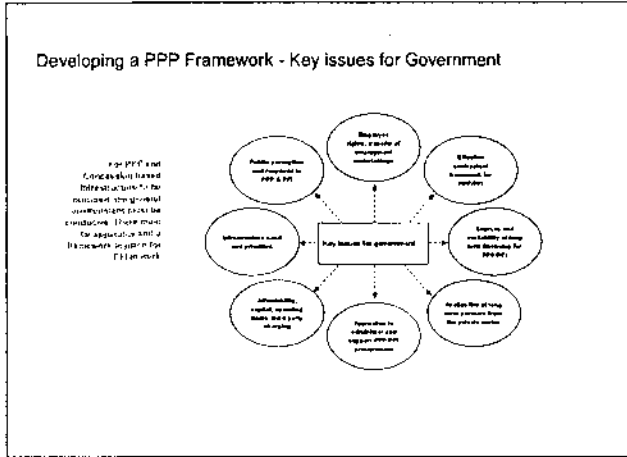
**Future of the PPP Approach
(cont'd)**

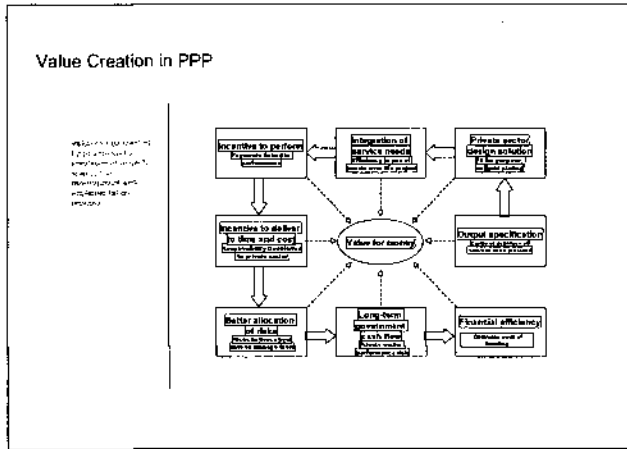
- The future looks bright.
- Public partner has increasing confidence in PPP approach in land development.
- Private Partner has shown their interest in PPP Projects

Thank You

Attracting Private Sector Capital to PPP in Hong Kong

Mr Jonathan Drew
Head of Project and Export Finance
North Asia
HSBC





Key Elements in Private Sector Participation - Risk Transfer

Key Elements in Private Sector Participation - Risk Transfer

Typical procurement	Private Sector Participation
Design	Design
Construction	Construction
Service provision	Service provision
Maintenance and renewal	Maintenance and renewal
Quality of service	Quality of service
Volume	Volume
Force majeure	Force majeure
Obsolescence	Obsolescence
Residual value	Residual value
Regulation/policy	Regulation/policy

Private sector | Shared | Government

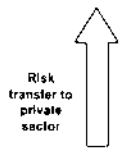
Understanding the Project Economics

Building blocks

- Detailed feasibility study with private sector input
- Clear revenue and cost projections based on considered and reasonable assumptions
- Understanding of private sector return requirements
- Identify government budget constraints and objectives
- Identification and selection of appropriate level and form of government support
 - Capital contribution
 - Availability type payment
 - Revenue support
 - Usage undertaking
 - Competitive protection
 - Tax relief
 - Pricing support
 - Discount on land cost
 - Packaged deal (eg. with property development)

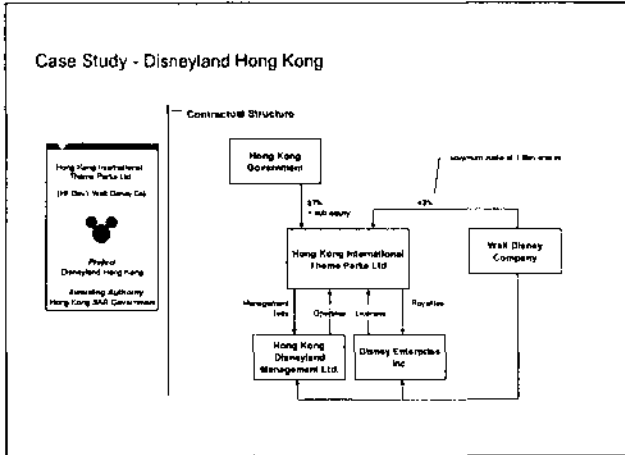
Determining the Right Structure

- Privatisation with possible residual government support
- Joint Ventures
- Concession Contract
- Split Concession / Hybrid
- Asset and Service procurement contract



Joint Venture Type PPP

- Structure
 - Joint commitment of the public and private sectors throughout the project life-cycle.
 - Investment participation of the private sector (thus lower than 100%).
 - Private investors typically receive a higher proportion of the profits / rate of return, thereby the government effectively subsidises the project cost
 - Public and the private parties in the project share the responsibility, the risk and the financing as shareholders in a jointly set up public enterprise
- Examples
 - Asia World Expo, HK Disney
- Advantages
 - alignment of interests between private and public sector
 - commercial risk transfer to private sector
- Drawbacks
 - inflexible risk allocation
 - may be expensive to finance



Case Study - Disneyland Hong Kong

Project Description

- To finance the development and construction of Hong Kong Disneyland facilities including one theme park, restaurants, retail shops, entertainment venues & hotels, as well as to provide working capital to the borrower.
- Sized in order to avoid any over-capacity issue when it opens. Further extensions will match demand, with Phase 1 first, and with the potential addition of Phase 2.
- To be built on reclaimed land. Reclamation was under the responsibility of the HK Government, and will provide capacity for Phase 2 expansion.
- Expected completion in 4Q2005 or 1Q2006.

Size

-Project financing term loan	HK\$2.3bn
-Revolving credit	HK\$1.0bn
-Subordinated Government loan	HK\$6.1bn
-Equity (HK SAR Government)	HK\$3.25bn
-Equity (Walt Disney Co)	HK\$2.45bn

HSBC Role

- Joint Lead Arranger in project financing for the construction and development of the Disneyland theme park in Penny's Bay, Lantau.

Case Study - Disneyland Hong Kong

Project Structure

- Liquidated damages payable by HK Government to the Project Company for completion delays / defects.
- Project Company have termination clauses in case of prolonged delay.
- 20 year renewable option to develop Phase 2.
- 50 year land agreement, renewable for 50 years.

Security Structure

- Priority over land and fixtures.
- Assignment of liquidated damages & any letters of credit posted by contractors.
- Assignment of all major project contracts.
- Assignment of all risks insurance maintained by the borrower.
- Priority over all of the borrower's bank accounts and contents thereof.

Concession Type PPP

- Structure
 - Private sector takes on all (100%) of the investment
 - Risk allocated by contract
 - Projects must be commercially self-sustainable
- Examples
 - UK DBFO
 - HK Roads, Korea, Philippines
- Advantages
 - single point of contract and liability for public sector
 - ease of procurement (relatively)
 - backed by some market precedent
 - transparent and relatively simple structure
- Drawbacks
 - Inflexible e.g. single concession period
 - project risk from funders' perspective, hence more expensive finance
 - aims and perspectives of investors may differ - e.g. long term for civil contractors, shorter term for operators

Transport - Western Harbour Crossing

Western Harbour Tunnel Company Limited
(HKT, China Structures, OTC, etc.)

Project: Western Harbour Crossing
Awarding Authority: Hong Kong SAR Government

Project Description

- Design, build and operate a dual three lane tunnel crossing linking Kowloon to Hong Kong Island
- 100% private sector financing
- Automatic toll adjustment mechanism
- Challenging legislative process

Size

- HK\$5.2bn (of HK\$7.9bn)

HSBC Role

- Advisor and Arranger to private sector consortium

Financial Close	Dec. 1993
Loan tenor	15 years
Loan pricing	100 - 150 bp
Leverage	78%
Structural Complexity	moderate
Bank appetite	>2B after syndication

Case Study - Transport - Western Harbour Crossing

Western Harbour Tunnel Company Limited
(HKT, China Structures, OTC, etc.)

Project: Western Harbour Crossing
Awarding Authority: Hong Kong SAR Government

Contractual Structure

Attracting Private Sector Capital

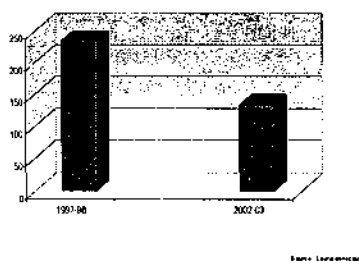
- Clear formulation and communication of policy and transaction programme to stimulate investor interest
- Appropriate allocation of risks and adequate rewards provided to private sector
- Risks clearly defined and allocated by contractual framework
- Government obligations undertaken by appropriate entities
- Project structure to facilitate debt financing and optimise overall cost of capital
- Adequate government assurances in respect of complementary and potentially competing developments
- Sufficient protection against changes in the underlying project specifications

Asian Financial Markets - General Trends

- 1997/98 Asian crisis
- Cessation or failure of pre-crisis infrastructure development (except Australia)
- Restructuring of Asian economies
 - Utility and infrastructure sectors
 - Banking/financial sectors
 - Public sector?
- In some economies, greater economic stability, resumption of growth and development of local capital markets
- In other economies, continuing political instability

Project Finance Trends – levels of activity

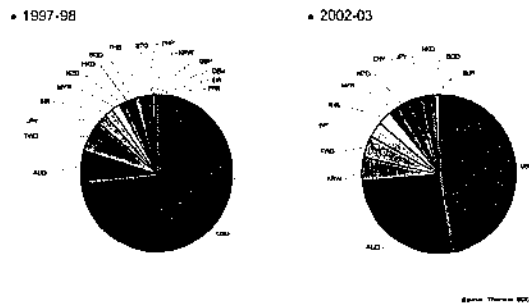
- project financings in Asia Pacific 1997-98 versus 2002-03



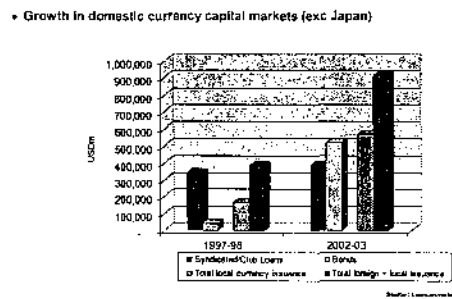
Regional Developments

- Long term interest rates have been at historic lows
- Many Asian markets have significant liquidity – deposits exceeding lending opportunities
- Demand for more liquid bond investments has greatly increased – Asian banks important in this new market
- Development of local bond and loan markets of great significance to financing of future investment
- Each regional market now has a distinct set of characteristics – the previous Asian cross border approach to project financings is largely history!

Project Finance Trends – currency of financing



Project Finance Trends – local bond markets



Hong Kong Market - key developments

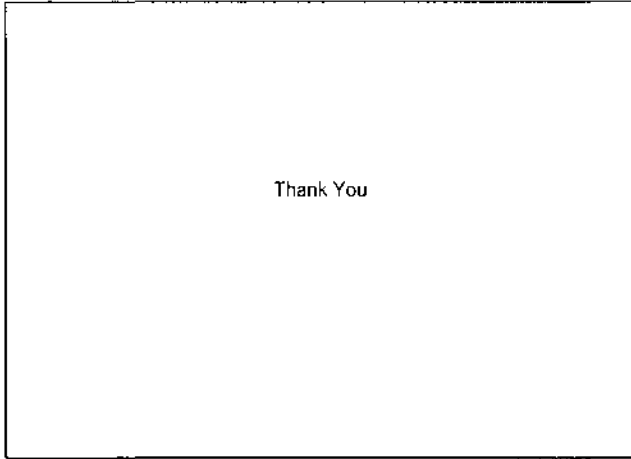
- Far fewer international banks operating locally are seeking to book project assets
- But the local Hong Kong and PRC banks remain very keen – subject to relationships and policy
- The local HK\$ capital markets have been greatly developed – including the retail investor base – monolines willing to wrap - however, the loan market will offer long maturities in HK\$
- Hong Kong economic and currency issues remain in lenders and investors focus
- Several Government initiatives to test the local and international appetite for Hong Kong project risk post 1997
- HK sponsors remain strong enough to invest in Hong Kong, but are growth opportunities better elsewhere?

Conclusions - Major pitfalls in PPP development

- Lack of sufficiently resolute political backing to implement the transaction
- Selection of wrong projects - e.g. too small, not commercially viable, wrong form of subsidy - o.g. property rights as form of subsidy needs very careful consideration
- Unrealistic assessment of capital cost and/or project revenues at feasibility stage leading to inadequate budget for public sector grant
- Inappropriate apportionment of risk between public sector conceding authority and the private sector concessionaire
- Government obligor not sufficiently robust
- Lack of project definition results in prohibitively high costs to the private sector of the competition / tendering process
- Policy uncertainty and perceived lack of transparency discourages broad private sector participation

Conclusions - Critical Success Factors for PPP


- The key to a successful deal is the partnership negotiated between the procurer and the supplier - right balance of responsibilities between the parties to build a solid, long-term relationship of mutual benefit
- Sharing of views of all potential stakeholders in the development of the legislative and regulatory environment is essential
- PPP is not a panacea - a bad project remains a bad project with or without PPP/Concession - project feasibility and suitability for PPP should be carefully examined by Government in all cases
- Public sector establishes the right financial framework to identify and incentivize value creation through PPP
- Support for robust financial markets delivering efficiency in capital provision



Thank You

**Funders Due Diligence Process:
the Roles of Surveyors in PPP Projects**

Mr Paul Norris
Public Private Finance Group
Bank of Ireland
UK


Bank of Ireland 

**Funder's Due Diligence Process:
The Roles of Surveyors in PPP
Projects**

Paul Norris


**Global Project Finance
Group**

Bank of Ireland

Bank of Ireland 


Topics

- **PPP/PFI**
 - features, volumes, types, comparison, funding structures, value for money, trends, effect on construction industry & risk transfer
- **Role of the surveyor**
 - general roles, the Technical Advisor, timing, advice, reporting, issues & attributes

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PPP: Main features


- key mantras: "risk transfer" and "value for money"
- Government buying services not just assets
 - pays for usage
 - starts paying only when asset complete
- Private sector funds the project - capital spend is not on Government balance sheet
- payment deductions for under-performance
- demand risk in certain sectors e.g. toll roads

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UK PFI : Volumes

- over 300 projects since PFI began in 1992 that are > US\$25 million
- combined capital value > US\$70 billion, have been signed
- 10% - 15% of Government capex per annum

PPP Forum database March 2004


Bank of Ireland 

UK PFI : Types of Project

To July 2003:

- 34 Hospitals, 119 other health schemes
- 239 new and refurbished schools
- 23 new transport projects
- 34 new fire and police stations
- 13 new prisons and secure training centres
- 12 waste and water projects


81% of public bodies involved in PFI projects believe they are achieving satisfactory or better value for money.

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Delivery - PFI vs. Traditional


	Traditional	PFI
Projects over budget	73%	20%
Projects late	70%	24%

PPP Forum database March 2004

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Why have they been able to deliver on time?

- since payments do not commence until the asset
 - has been built
 - the consortium is delivering the required service
- the payment mechanism incentivises the consortium to complete the construction as soon as possible.

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PPP project funding structures (e.g. Hospital, Schools)

- around 90:10 debt:equity ratio
- equity earns 12%-15%
- 25 year debt
 - debt service cover ratio c. 1.2x
 - margins and fees c. 1% for prime sponsors
 - strong monitoring covenants
 - main security is step-in rights to contracts
 - Security over SPV income stream
 - Direct Agreements with Public Sector and Sub Contractors
- interest rate swap

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Better value for money?

- the Government can borrow more cheaply than the private sector!
- however, it's not simply about comparing interest rates
- offset by the private sector taking on the risk of
 - construction cost,
 - time overruns and
 - project performance;
- using their ability to innovate
- tighter Project / Cost Management

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PPP Market Trends

- standardisation of terms
- consolidation of bidders within sectors
- barriers to entry:
 - bid costs and experience
 - financial strength
- NHS LIFT / Best Value (local government)
- Building Schools for the Future (BSF)

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Construction Industry

- big effect - PPP has reshaped the construction industry
- forced contractors to focus on their core skills
- construction or service company
- go for either
 - Investment e.g. Laing/Equion
 - Contract e.g. Laing O'Rourke

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Risks Transferred to Private Sector

- construction quality
- construction cost
- construction programme
- cost of services
- quality of services
- cost to maintain the building
- (volume or usage risk)

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Risks Retained by the Public Sector

- demand risk - is the facility needed?
how many people need it?
- residual value risk - at the end of the project the property is given back to the Public Sector
- scoping of the project
- Government change in laws

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In summary - Reasons for Government to do PPP?

- Off Balance Sheet finance
- spread cost over project term
- access Private sector innovation, efficiency and expertise
- transfer key project risks to private sector
- Value for Money (VFM)
- outsource non core activities

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Role of the Surveyor

- Disciplines of surveyors used in PPPs:
 - property/land valuation and planning
 - project costs and management
 - building materials and construction
 - contract - commercial
- Other roles
 - Independent Certifier
 - Employer's Agent

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The Technical Advisor (TA)

- Funder's Due Diligence process
- UK - Quantity Surveying practices are dominant e.g. C&B, Cyril Sweett, EC Harris, Gleeds, T&T and DLE
- they are experienced in PPP (from conception)
- understand the commercial issues
- right time right place
- network well!

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At what stages?


- (Invitation To Negotiate)
- (Best And Final Offer)
- Preferred Bidder
- construction monitoring
- operational monitoring

- if Project does not go ahead?
 - Letter of Indemnity from Sponsor to cover TA costs

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Information to Assess

■ Planning Consents	■ Financial model - Approved Construction Budget
■ Traffic amendment agreements	■ Drawings - Plans/elevations
■ Planning obligation agreements - type of use	■ Construction programme
■ Geo-technical Reports	■ The Contractor/Track Record
■ Asbestos Surveys	■ Contract Form & Amendments
■ Employer's Requirements	■ Consultant Appointments/Warranties/ P.I.
■ Contractor's Proposals	■ Budget Summary
■ Cost Plans/Tenders	■ Development Appraisal
■ Performance regime / payment mechanism	

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Pre-contract Reporting

- Is the project deliverable and viable?
 - planning risk
 - total project costs
 - contingency allowances
 - construction programme
 - Is contract completion date achievable?
 - contract and conditions – step in
 - Payment mechanism
 - contractor/professional team appointments
 - fees, warranties, scope of service

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Post-Contract Reporting


- monitoring mode
- site visit
 - usually once per month (can be more or less frequent depending on draw profile)
- we need to know the TA's viewpoint
- early warnings of problems are essential

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Post Contract - Monitoring


- valuation of works completed
- assessment of progress
- quality issues
- evaluation of costs to complete
- any other relevant matters
- drawdown approval
- drawdown report to Bank

No Certificate = No Money

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Interaction Points

- "Eyes & Ears" for Funder
- after site meetings report back quickly by telephone on findings if there are concerns
- advisor "rated" on frequency and quality of contact

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What should TA give Funder in Project Updates?

- Assessment of project to date in terms of:
 - costs to date
 - costs to complete
 - variations / increases in cost (added value?)
 - programme
 - performance of contractor & team
 - other issues affecting cost & delivery
- Highlight potential risks - High, Medium and Low

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What TA generally does should not cover

- valuation of the site
- valuation of the completed development

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Common Issues for a TA

- lack of information at the initial report phase
- unwillingness of the Developer to share information
- no formal meetings with Contractor post contract
- generally not in post contract information flow
- Project Web Portal - good thing if you can get on it

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Attributes - Personal/Corporate

- service-orientated
- experienced & professional
- efficient
- multidiscipline construction & management consultancy
 - not just surveyors
- individually well qualified e.g. BSc + (LLB, MBA)
- be prepared to network and entertain - relationship business

Bank of Ireland 

Thank You

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**PPP and Strategic Outsourcing
in Facility Management**

Dr Chan Man Wai
Director of Estates
The Hong Kong Institute of Education
Founding President
the Hong Kong Institute of Facility Management

PPP and Strategic Outsourcing in FM



M.W. Chan *PhD FHKIS*

- Introduction
- FM
- Key Elements of FM
- Strategic Outsourcing
- PPP / PFI
- Project Funding
- Systems Approach
- PPP under FM
- Conclusions



Facility Management

Facility Management (FM) as a discipline or a profession started in the US as early as the 60's and in the UK in the 80's while in Hong Kong probably in the 90's and having its own institute by the turn of the century.



"Facility Management is the process by which an organization integrates its people, work process and physical assets to serve its strategic objectives. As a discipline, facility management is the science and arts of managing this integrative process from operational to strategic levels for promoting the competitiveness of organizations.

The HKIFM hence recognises Facility Management as both a process and a discipline. It also affirms the integrative approach adopted in Facility Management world-wide and promotes the synergy of effective people and building/ asset management that can enhance a corporation's competitiveness."

(HKIFM)

"The practice of co-ordinating the physical workplace with the people and work of an organisation: (it) integrates the principles of business administration, architecture, and the behavioral and engineering sciences."

As defined by the US Library of Congress and often quoted by the International Facility Management Association (**IFMA**)

Main Elements of FM

- PEOPLE (Individual and teams)
- PROCESS (Working of organization)
- PLACE (Physical asset)



Integration, interaction of the three; tools and techniques to achieve management objectives of an organization!

Key FM issues

- Strategic Outsourcing
- Strategic Facility Planning (SFP)
- Benchmarking
- VFM and Customer Service
- Public Accountability
- Finance
- Operation and maintenance
- Corporate Real Estates (CRE)

Strategic Outsourcing

Outsourcing to achieve better return on investment and accelerated growth. Strategic outsourcing is approached as a redirection of the organization's resources toward its highest value creating activities — its core competencies.

Firmbuilder.com

Tactical Outsourcing

Outsourcing to achieve operational efficiencies. Tactical outsourcing is approached as a competition between existing internal operations and outside service providers.

Firmbuilder.com

Economics of Outsourcing

Boundary of the firm (Coase 1937)
 Vertical integration or disintegration (outsourcing)
 Outsourcing vs. irreversible investment
 Outsourcing of input good to an imperfectly competitive input market to soften competition in the final market. (Buehler S & Hancap J 2003)

Private Public Partnership



PPP is a UK Government policy to involve the private and public sectors in government initiatives in generic terms. Its purpose is to negotiate deals that are good for both sides.

PPP hence includes privatization, improving regulation of utilities, making Government more business like (like postal service) and the PFI.

PPP and PFI fundamental difference is that PPP is a generic public-private partnership, while PFI is a sub-sector of PPP, with the specific purpose to deliver a service of publicly managed assets using private capital. The predominant model for a PFI is the DBFO, followed by freestanding projects and joint ventures.

De Lemos (2003)

Political Perspective



British Conservative Privatization (see universal testing)
 Labour continuation (Bates review 1997, 1998)
 Internationally e.g. Finland - shortage of financial resources "forced to look outside conventional budget financing ... public projects" Wessman (2002)
 PPP or its hybrid not new to Hong Kong e.g. Cross-Harbour Tunnel

Project Funding/ Project Finance

Re-course and Non-recourse funding
 Project Finance vs. Corporate Finance
 Financial Engineering
 SPV
 Off-balance sheet
 VFM/ Interest Cost
 Risk premium for funding PPP/PFI



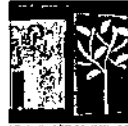
Systems concept as applied to PPP, FM and Funding

PPP an input/ output system when ultimate "transfer" is considered
 FM as a continuous process and open system
 Funding as a closed system when considering project finance and payback
 Construction project as another system with start and finish time with specific budget and quality requirements
 Blurring of system boundaries

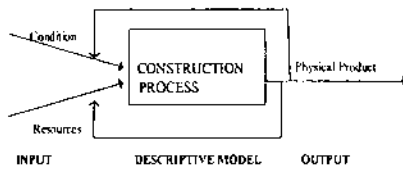
Systems Approach to Construction Projects

From a "systems" perspective, the "input" to the construction system is the injection of resources including funding, design expertise, material and labour into the construction process while the "output" is the finished product which meet the required project objectives.

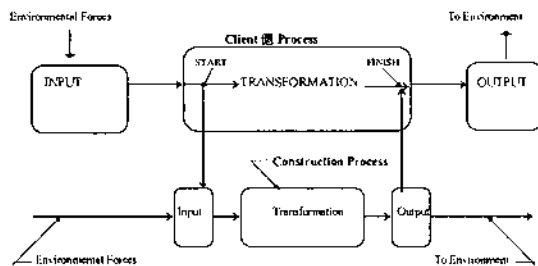
See Mohieldin's model (1989)

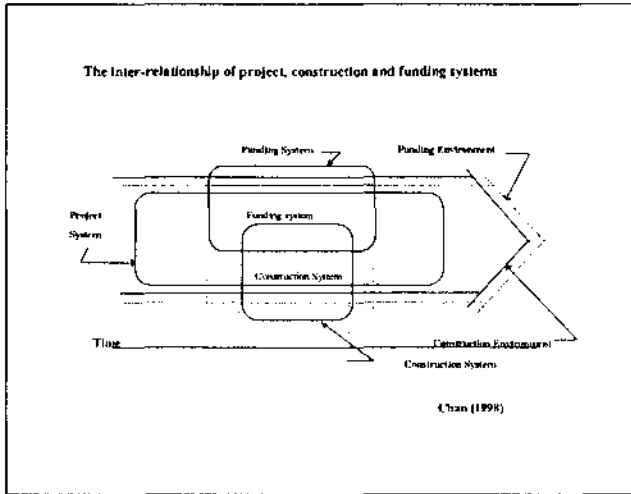


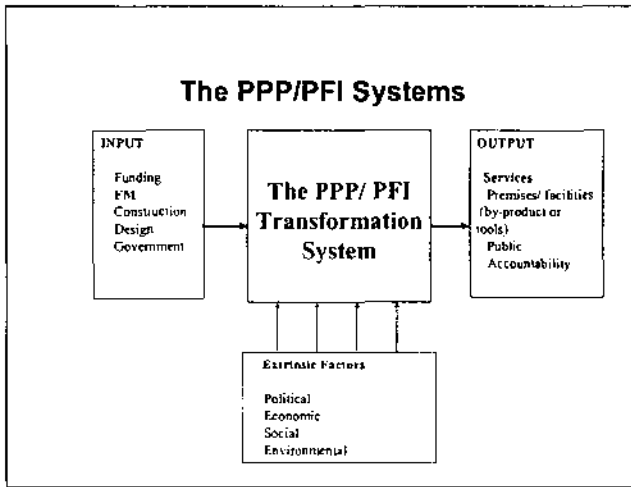
Mohieldin's Model (1989)

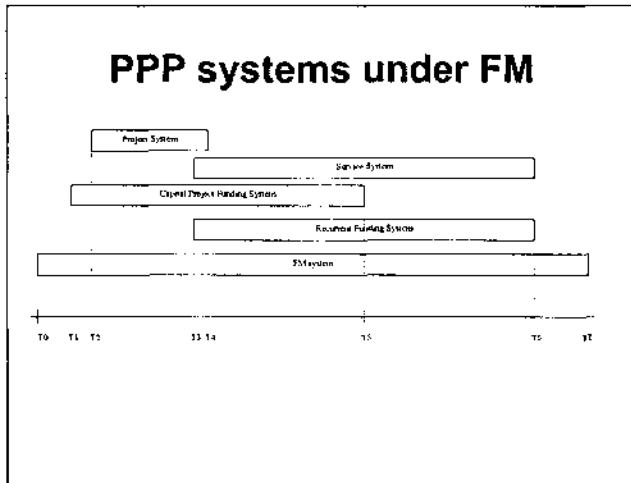


An input-output model of the process of providing a project (Walker 1996)









Paradigm shift and systems rethink



Service Provision vs. Construction
 Funding vs. Cost (Criticality of Funding System)
 FM vs PM
 Performance Based vs Specifications
 Ends vs Means
 Importance of FM as a comprehensive approach
 Value for Money (VFM)/ Risk/ Funding

"Two importance issues emerged from the introduction of PFI: the change in organizational culture brought about by a move into the **services sector**, coupled with the need to deal with **long-term issues**, followed by the **financing structure** ... the balancing of debt and equity and the hypothesis of considering **bond issues** to finance senior debt."

De Lemos (2003)

FM in PPP Context

FM a continuous process
 FM vs. Pjt M systems
 Terms and Transfer
 Government/ Public Accountability
 Private Sector rights
 Striking the balance
 The safety valves and instruments for control:
 - Benchmarking Marking
 - SLA
 - PSC

Key FM features important for PPP/ PFI success

- Concentrate on Services (Contractors not necessary the best to lead PPP/PFI)
- Importance of Project funding
- Life cycle maintenance
- Strategic facility planning SFP
- Benchmarking (See Public Sector Comparator)
- FM systems
- Business Continuity



PPP as Strategic FM Outsourcing

- What to outsource
 - Non-core?
- What not to outsourced
 - Core competencies?
- What PPP can and cannot do
 - Synergy
 - Public goods and adaptability to changing public needs

Funding in PPP/FM context

- Project or Corporate Finance or both
- Recurrent financing in FM vs. Capital Expenditure in Pjt M
- Risk Premium in funding of private sector (see Hong Kong's PSPS)
- The VFM paradox in PPP (Merna T & Njiru C. 2002)
- Life Cycle Costing (LCC)

PPP under Strategic Facility Planning (SFP)

Impact of the environment
Change as the norm
PPP as a long-term business commitment
Capability to make strategic FM adjustment
Public goods vs. commercial interest

Importance of FM Benchmarking

FM Benchmarking - constraints
Public vs. private sector benchmarks
Differences in funding mode
Public Sector Comparator
PPP or strategic outsourcing

VFM and Customer Satisfaction

What VFM?
Continuous improvement
SLA
Customer feedback
Approval rating

Operation and Maintenance

CMMS CAFM CIFM
OH & S
LCC
Renovation and renewal allowance in long term PPP ?
Legislative changes

Business Continuity and Crisis Management

Business Continuity or Service Continuity
Crisis Management within PPP or Government
Contingency Planning
Risk assessment – Public or Private
Insurance

Corporate Real Estates

Real Asset or Service's Income Stream
PPP as REITS?
Portfolio Management
Asset convertibility
Asset/ PPP as collateral

Conclusion

PPP as FM Strategic Outsourcing
Considerable opportunities in PPP
FM and Pjt Funding expertise
Rethinking core competencies
Repositioning of the team
Performance and service based approach
Embrace change and face up to challenge to
exclusivity



Thank You!



Speakers' Profile

Sir Gordon Ying-Sheung Wu

Mr. Steve Barclay

Mr Arthur McInnis

Mr Steven Page

Mr Igor Rukuts

Mr Akio Yamashita

Dr A. Scott Carson

Mr Daniel Liew

Dr. Richard E. Larew

Mr Rupert Sydenham

Mr Yu Kam Hung

Mr. Jonathan Drew

Mr Paul Norris

Dr. Chan Man Wai

Sir Gordon Ying-Sheung Wu KCMG FICE

Sir Gordon Ying Sheung Wu KCMG FICE, is the Chairman of the board of Hopewell Holdings Limited and Hopewell Highway Infrastructure Limited. He graduated from Princeton University with a Bachelor of Science degree in Engineering in 1958. He is the founder of Hopewell, which was listed on the Stock Exchange in 1972, and holds directorships in principal subsidiaries of Hopewell and the Company. In addition to being the chief executive officer, as a civil engineer by profession, he has led the design and construction of the numerous property development projects of Hopewell in Hong Kong since the early 1970's and the hotels, power plant and road infrastructure projects of Hopewell in the PRC and overseas since the early 1980's, including the Shajiao B power plant which received the British Construction Industry Award and setting a world record of completion within 22 months.

Civil & Community Service

CPPCC Overseas Chinese Affairs Committee	Deputy Director	2003-
United Nations Association of China	Director	2002
International Finance Corporation of the World Bank Business Advisory Council	Member	1992-
City University of Hong Kong Council	Chairman	2004-
Hong Kong Logistics Development Council, HKSAR	Member	2001-
Urban Renewal Authority, HKSAR	Member	2002-
Great Pearl River Delta Business Council	Member	2004

Honorary Degrees

Hong Kong Polytechnic University	Doctor of Engineering	1994
University of Strathclyde, UK	Doctor of Business Administration	1994
University of Edinburgh, UK	Doctorem honoris causa	1996

Awards

Chevalier De L'Ordre De La Corona	King of Belgium	1985
Business Man of the Year	South China Morning Post and DHL	1991
Asia Corporate Leader	Asia Finance Magazine	1991
Among "the Best Entrepreneurs"	Business Week	1994
Man of the Year	International Road Federation, USA	1994
Industry All-Star	Independent Energy, USA	1996
International CEO of the Year	George Washington University, USA	1996
Knight Commander of the Order of St. Michael and St. George	Queen of England	1997

Honorary Consul of the Consulate of the Republic of Croatia, Hong Kong SAR, PRC	2002
Personality of the Year 2003 The Asian Freight & Supply Chain Awards	2003
Leader of the Year 2003 (Business / Finance)	2004

Born in December 1935, Sir Gordon is a third generation Hong Konger. He is married to Ivy Kwok (胡郭秀萍). They have 2 daughters & 2 sons.

Mr. Steve Barclay

Nationality : British
Married with 2 children
Graduated Birmingham University 1978 (BA Hons)

Employment Record

1979 Royal Hong Kong Police Force – Inspector of Police

1982 Joined Hong Kong Civil Service as an Administrative Officer

1982 Economic Services Branch,
Assistant Secretary (Gas Safety Policy)
Assistant District Officer/North District – Handling rural and New Town
development

1984 Finance Branch, Assistant Secretary

1986 Trade and Industry Branch
Assistant Secretary – Consumer Protection and Intellectual Property
policy

1990 Housing Department – Senior Administrative Office (Housing policy)

1990 District Officer (Eastern)

1993 Hong Kong Economic and Trade Office, Brussels
Deputy Representative – Trade and Economic Affairs

1996 Planning, Environment and Lands Branch
Principal Assistant Secretary
 – Solid Waste Management policy
 – Energy Efficiency

2000 Central Policy Unit – Coordinator, Chief Executive's Policy Address

2001 Central Policy Unit – Coordinator, Chief Executive's Policy Address

2001 Efficiency Unit – Assistant Director responsible for promoting private
sector involvement in delivery of government services eg outsourcing
and public private partnerships (PPPs)

Mr Arthur McInnis

Arthur is Counsel to the firm of Clifford Chance and a member of the firm's International Construction Practice Group.

Arthur holds Diplomas in both Civil Law and Comparative Law from Sherbrooke and Dalhousie Universities respectively, a BA in Economics and Political Science (Regina), an LLB (Sask), BCL and LLM degrees (McGill) as well as a PhD in law from Queen Mary and Westfield College at the University of London.



Arthur was admitted to practice as a Barrister and Solicitor in Saskatchewan in 1981 and British Columbia in 1985 and as a Solicitor in Hong Kong in 1990. He became a Fellow of the Chartered Institute of Arbitrators in 1994.

Arthur has a strong reputation which is tied to some 50 or so publications in the construction field including *The Butterworths' Hong Kong Building Law Handbook*, 2nd Edition, 2002; *The New Engineering Contract: A Legal Commentary*, 2001; and *Hong Kong Construction Law* 3 vols looseleaf, current. For the past six years Arthur has been a Chairman of the Appeal Tribunal (Buildings) in Hong Kong and for the past four years served as the Honorary Legal Advisor to the Joint Contracts Committee preparing the new Private Standard Form of Building Contract in Hong Kong. Previously he has served as a Consultant to the Arbitration Law Study Group (Chusai Kenkyukai) that prepared Japan's Arbitration Law.

Arthur's practical experience is diverse pertaining to a wide range of both contentious and non-contentious project matters.

Clifford Chance is one of the world's largest law firms providing a comprehensive range of integrated legal services to the public and private sectors through its 3700 legal advisers.

Mr Steven Page

Steven is the foundation Director of the Projects Analysis Branch in the South Australian Treasury, which was initially established as the Public Private Partnerships Unit in May 2001. The Branch reports jointly to the Treasurer and the Minister for Infrastructure on the financing of major infrastructure projects in South Australia, covering the main portfolios of Justice, Human Services, Education, Transport, Government Enterprises and regional infrastructure. The Branch is directly responsible for the development of PPP policy in South Australia and the delivery of designated PPP projects.

Steven has over 20 years experience in finance in the public and private sectors. Prior to joining Treasury in 1997, Steven was employed as a Portfolio Manager with Westpac Investment Management, one of the leading fund managers in Australia, where he managed around AUD3 billion in wholesale and retail investment funds.

Prior to joining Westpac, Steven was employed as the Corporate Treasurer of the Tasmanian Public Finance Corporation, responsible for the financing of State Government enterprises and management of the State's debt portfolio. He was also responsible for developing structured financing solutions for the State's capital investment program, which included the financing of the Bass Strait ferry Spirit of Tasmania and the Hobart Police Headquarters.

Steven holds bachelor's degrees in Arts and Law from the University of Stellenbosch, Cape Town and a Master of Business Administration from the University of New England, New South Wales.

Mr Igor Rukuts BA BSc FRICS

Managing Director
Northcroft International Operations
Director Northcroft Hong Kong Ltd
Director Northcroft Lim Consultants Pte. Ltd,
Singapore
Director Northcroft Australia Ltd



Igor, aged 52, was trained as a building economist, and has worked for Northcroft as a cost consultant and project manager since 1978 in the UK and in Hong Kong, where he worked on the Hong Kong and Shanghai Bank HQ. He has advised on a variety of construction projects in many sectors in Europe, Middle East and in Asia

His particular expertise is in developing non-traditional procurement strategies, value management, risk management, due diligence services and project technical monitoring.

He has lectured in UK, Japan and Hong Kong on PFI/PPP procurement.

Igor has personal experience of PFI/ PPP/ DBFO projects as Managing Director of Northcroft UK Operations, between 1989 and 2000, overseeing various Northcroft PFI/ PPP projects.

Igor's recent projects have included risk management services on the Beijing 2008 Olympics and the first PPP housing project in Romania.

Northcroft, founded in 1840, are International Construction Consultants, specialising in providing Cost Management and Project Management and Construction Consultancy services on a wide range of UK and international projects, including those procured through PFI/PPP, or BOT contract arrangements.

Northcroft have had numerous commissions as technical consultants on PFI/PPP projects in the infrastructure, healthcare, prison, education, housing and public buildings sectors in the UK and are currently advisors on PFI hospital projects in Portugal.

Mr Akio Yamashita

Professional Qualifications:

Bachelor of Science, Nagoya Institute of Technology
First-class Architectural Engineer, Ministry of Construction, Japan
Project Management Professional, Project Management Institute, USA

Business:

Consultant, Sato Facilities Consultants, Inc.

Professional Experiences:

Akio Yamashita has worked in construction industry since 1983, in contracting and as a consultant in Malaysia and Japan. His major field is Project and Cost management. In recent years, he is working on Specifications for Performance and its evaluation method in PFI and other projects.

Dr A. Scott Carson, PhD

Dr. A. Scott Carson is Dean of the School of Business and Economics, and Professor of Business Policy at Wilfrid Laurier University, Waterloo, Ontario. Previously, he was Dean of the Frank H. Sobey Faculty of Commerce, and Professor of Management at Saint Mary's University, Halifax, Nova Scotia. As well, he is a past Chair of the Canadian Federation of Business School Deans. Dr. Carson is a graduate of Mount Allison and Dalhousie Universities, and received his PhD from the University of London in 1980. He has many research publications and is a frequent speaker at academic and professional conferences in the areas of public policy, strategic management, management education, corporate governance and business ethics.

Dr. Carson's career has combined business and government service with academe. While on leave from Wilfrid Laurier, he was Chief Executive Officer of the Ontario Government's Privatization Secretariat. Reporting to the Minister for Privatization, his group was responsible for the sale of the Hwy 407 toll road. This was the largest privatization in Canadian history.

In business, Carson was Vice-President and Head of Corporate Finance for CIBC in Toronto, responsible for project and structured finance and financial advisory. Prior to this, he was an executive at Chemical Bank of Canada (now J.P. Morgan Chase), an Account Manager with the Mercantile Bank (acquired by National Bank) and a staff accountant with the auditing firm of Clarkson, Gordon (now Ernst & Young).

Dr. Carson is on the board of directors of The Economical Insurance Group, Comerica Bank – Canada and Waterloo North Hydro Inc. He is a past Vice-Chairman of the Halifax International Airport Authority and a former board member of both the Canadian Bond Rating Service (CBRS) and Mitra Imaging Inc. Carson is a Director of the Canadian Council for Public-Private Partnerships, and Chair of the Board of Directors of The Greater Kitchener Waterloo Chamber of Commerce. Previously, he was a Director of the Metropolitan Halifax Chamber of Commerce.

In addition, Carson has been a member of committees and advisory panels with the Business Review Advisory Panel for the Minister for Privatization (Government of Ontario), Canada's Technology Triangle Economic Development Task Force, Canadian Securities Institute, Investor Learning Centre, Halifax G7 Summit Executive Committee, and the World Trade Centre Institute (Halifax). In the community, Dr. Carson is involved with The Kitchener and Waterloo Community Foundation and Junior Achievement. He was previously a member of the Campaign Cabinet of the United Way of Kitchener-Waterloo and Area.

Mr Daniel Liew

Daniel Liew is a partner of Simmons & Simmons. He heads our energy and major projects practice in East Asia. Mr. Liew has experience in advising project sponsors and financiers on the structuring, development, financing and documenting of power, oil and gas, infrastructure, telecommunications and other major projects in China and the Asia Pacific region.



Mr. Liew represents multinational and Asian corporate clients in mergers and acquisitions, strategic alliance, joint ventures and initial public offerings in China and the Asia Pacific region. In addition, he advises on project finance, banking and debt capital market transactions.

Mr. Liew recently advised Impregilo International Infrastructures on successfully acquiring the equity interest in and the right to operate a waste-to-energy power project in China after a competitive bidding process. This PPP oriented project involves the revision and negotiation of all offtake and operating agreements for the power project. He is currently advising this major European infrastructure company on three power projects in China. He advised China Resources Power on the competitive bidding and successful acquisition of the Shajiao C power project, the largest foreign invested power project in Guangdong, China with 1,980MW, at a consideration of US\$300 million.

Mr. Liew led the Simmons & Simmons team advising Mitsubishi Corporation and PETRONAS on the US\$900 million LNG terminal and pipeline project in China.

Mr. Liew is admitted to practice law in England and Wales, Hong Kong and Australia. He speaks English, Mandarin, Cantonese and Malay fluently and reads and writes English, Chinese and Malay.

Mr. Liew is named a leading project finance lawyer by Asia Law & Practice. He is also named in the Asia Pacific Legal 500 for infrastructure and project finance and recommended for advising on major energy and other projects. Mr. Liew is named in the IFLR 1000 Guide to the World's Leading Project Finance Lawyers. He chairs the China committee of the Independent Power Producers Forum. Mr. Liew is a regular speaker at energy and major project conferences in the Asia Pacific region.

Dr. Richard E. Larew, PE, CCE

Certified Cost Engineer

Editor, Skills & Knowledge of Cost Engineering, 4th Ed., 1999, AACEI

Licensed Professional Engineer (Architectural Engineering, Civil Engineering, and Mechanical Engineering), and Land Surveyor.

Senior Advisor, Treasure Bay Oriental Development, Shanghai.

Associate Professor Emeritus, Construction Engineering and Management, Department of Civil and Environmental Engineering and Remote Sensing, Ohio State University.

Member, Engineering Development Council, College of Engineering, University of Iowa.

Member, AACEI, ABA, ASCE, IIE, NSPE, PMI, PMICOS.

Background Information

1974-1995: Associate Professor, Construction Engineering and Management Program, Department of Civil and Environmental Engineering and Geodetic Science, the Ohio State University.

1971-1975: MS and PhD, Industrial & Management Engineering, University of Iowa.

1955-1971: Founding Partner and COO, Red Ball Engineering and Development, Inc.

1953-1955: Unit Commander, U.S. Army Corps of Engineers, United States, Korea, and Japan.

1948-1953: BS, Mechanical Engineering, University of Iowa.

1942-1953: Apprentice, Journeyman, and Master Plumber.

Mr Rupert Sydenham

Rupert is a partner in the Projects (Engineering and Construction) Group of Lovells based in the Hong Kong office. He has advised on legal issues relating to a wide range of infrastructure projects, including drafting project documentation, advising on risk management issues during the course of projects and representing clients in formal and informal dispute proceedings (including litigation, arbitration and mediation). He has advised upon, negotiated and drafted project documentation (including EPC and BOT contracts) in many different industry sectors (including roads, rail, airports, health, accommodation, power and waste) and many jurisdictions (including Hong Kong, Mainland China, Taiwan, Singapore and the Philippines). Before coming to Hong Kong in 1998, Rupert worked in Lovells' London office, where he was involved in PFI projects.

Mr Yu Kam Hung

Professional Experience

Kam-hung is a chartered general practice surveyor with over 23 years' property experience in Hong Kong, specialising in valuation, investment and development site sales and property development.



Prior to joining CB Richard Ellis, Kam-hung was the National Director in Valuation Advisory Services Department of Jones Lang LaSalle with responsibilities on Asia Pacific Valuation matters. Kam-hung has a wide breadth of experience in valuation and sales market. The types of properties sold by him included, inter alia, whole block offices and residential buildings, shopping centres, projects under construction, development sites and agricultural land. His main experience include land advisory services, portfolio and securitisation valuations, rent review negotiation, litigation, government lease modification application, premium negotiation, site valuations, development site sales, investment sales and property development.

Significant assignments

Major assignments, which Kam-hung has been responsible for, include the following:

Major prior assignments

Clients

Alternative and best use analysis and valuation for various public listed companies	Various Listed Companies
Feasibility Consultancy for a Syndicate	16 Japanese Finance Institutions
Litigation & Dispute Related Consultancy	Various Clients
Non-performing Loan Portfolio Consultancy	GE Capital, Lone Star, Merrill Lynch & Morgan Stanley
Rent Review and Litigation	Various Clients
Securitisation Consultancy	Societe Generale
Valuation consultancy for various large scale investment/development properties in PRC and Hong Kong	Various Clients

Professional Affiliations

- Chairman for General Practice Division of the Hong Kong Institute of Surveyors (HKIS)
- Fellow of the Hong Kong Institute of Surveyors (FHKIS)
- Fellow of the Royal Institution of Chartered Surveyors (FRICS)
- Fellow of the Hong Kong Institute of Real Estate Administration
- Licensed Estate Agent in Hong Kong (E-045288)
- Registered Professional Surveyors (General Practice Division)
- Member for the General Council of the Hong Kong Institute of Real Estate Administration

Education

Kam-hung holds a Master of Science Degree of e-Commerce from the Hong Kong Polytechnic University and a Bachelor of Science Degree (Honours) in Estate Management from the University of Reading, U.K.

Mr. Jonathan Drew

Jonathan is responsible for HSBC's project & export finance business in the North Asia region and has been based in Hong Kong since 1997. Jonathan has extensive experience advising and arranging finance for clients across a wide range of sectors including Oil and Gas, Petrochemicals, Power and Transportation.

Recently Jonathan has led teams developing concession, BOT and PPP type infrastructure projects in Hong Kong and China and successfully delivering innovative financing solutions from the financial markets.

Prior to his move to Hong Kong, Jonathan spent three years in HSBC's London project finance team active on assignments in the Middle East and South Asia. Before that he transacted significant structured finance and capital markets business for HSBC in Argentina. He holds an MA in Economics from Cambridge University and qualified as a Chartered Accountant.

Mr Paul Norris

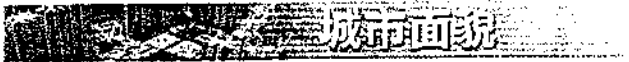
Paul Norris joined the Structured Finance department of the Bank of Ireland in 2003 as a Manager with his prime focus being on arranging Public Private Finance deals in the UK, primarily within the UK's Private Finance Initiative scheme. His recent transactions to be closed include Salisbury Hospital PFI, Lochgilphead Health Centre PFI, and Darlington Schools PFI. Previously, Paul has worked as a consultant for the management consultancy arm of Currie & Brown in the UK, where he was head of their Risk and Decision Modelling department in the City of London. Here Paul helped businesses model their financial and non-financial operations in mostly project finance type deals in such sectors as infrastructure, mining, oil & gas, telecomms, education and healthcare. Paul is a graduate of both Royal Holloway University of London and Imperial College of Science, Technology and Medicine.

Dr. Chan Man Wai

Dr. Chan Man Wai is currently the Director of Estates of The Hong Kong Institute of Education. He is a qualified Building Surveyor (FRICS/ FHKIS), a Professional Quantity Surveyor (PQS of Canada) as well as a Professional Facility Manager (F.PFM). He is also an Authorized Person under the Building Authority of Hong Kong.

Dr. Chan has many years of experience in construction project management as well as in facility management both in Hong Kong and overseas. He has spent some years in the academia as an Associate Professor in Surveying and Facility Management. He is also the Founding President of the Hong Kong Institute of Facility Management (HKIFM). Dr. Chan holds a B.Sc. in Building Surveying, M.Sc. in Construction Project Management, MIPA in International and Public Affairs and a PhD in Project Funding.

PPP News



分配資源風險 達公共需求目標 發展大型項目 宜取PPP模式

公營部門與私營機構合作模式 (Public Private Partnerships, 以下簡稱PPP) 近年在本港出現, 其實此模式早已廣泛應用於英國、美國、加拿大、澳洲與日本等地。香港測量師學會指出, PPP沒有通用定義, 不同國家會建立起不同的模式。要避免如西九龍文娛藝術區般「喋喋不休」、「官商勾結」等爭拗, 最重要是首步的考慮及準備工夫; 落實發展後, 再配合清晰信息及具系統的推行政程序, 才會成功。
撰文: 曾悠

政府近期雖然不斷提倡以PPP發展大型投資項目, 包括西九龍文娛藝術區、沙田威爾斯親王醫院重建, 及九龍沙田南供水服務等, 但引來市場爭論不息, 反映出社會對PPP認知不足。

文化因素 PPP發展不同

測量師學會提供資料顯示, 各國的PPP發展模式各有不同, 會因應本身的文化因素等作出調整, 例如在加拿大, PPP指公營及私營機構的合作項目; 合作項目建基於各自專業所長, 通過資源、風險與報酬的合理分配, 達到確定的公共需求目標。

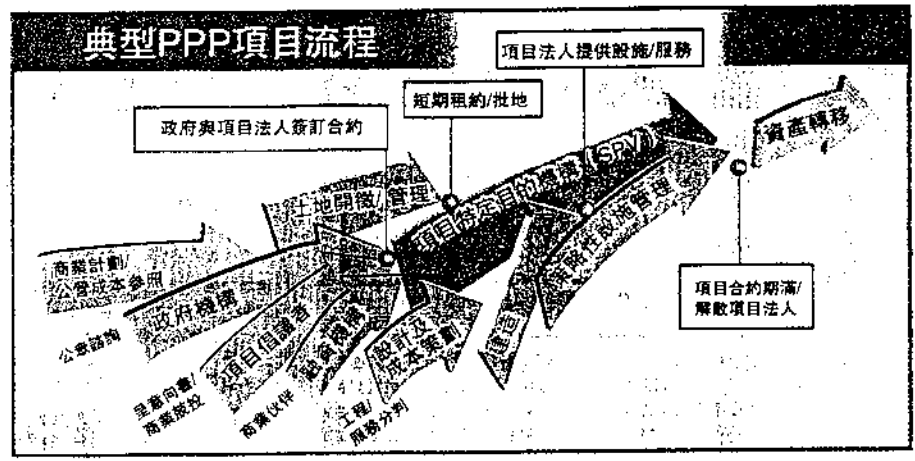
至於在英國, PPP包括私人融資計劃 (Private Finance Initiative) 與其他方式; 通過合約方式, 公營部門運用私營機構的管理技巧以取得長期優質服務。PPP亦可透過特許經營方式, 由私營機構合作承接公共設施或服務項目的企劃、設計、融資、建造、營運及保養。

該學會工料測量師秘書何學強亦指出, 「PPP涉及範圍相當廣泛, 可應用於不同範疇, 如醫療設施、道路、學校、橋樑, 甚至運輸系統等發展上。英國的PPP於92年開始發展, 至今有逾10年發展經驗; 至於澳洲亦已於近數年引入PPP發展模式。」可見海外已廣泛應用。

以英國為例, PPP發展項目達600個, 其中逾八成屬成功例子, 即發展於預期之內, 未有出現超資或逾期發展等情況。

PPP慎用 免招長遠損失

何氏指出, 在決定是否採用PPP前, 政府須作詳細考慮, 因為不恰當應用會引來長遠的損失; 所以公營部門須預先訂立一個自行發展項目的預計成本參考 (Public Sector Comparator), 以作為比較。PPP模式只宜採用於當項目總成本 (包括生命週期), 明顯低於採用傳統招標方式的預計總成本。



測量師學會會長謝偉銓指出, 現時港府在發展PPP方面仍處於「摸索階段」, 推行手法及周詳考慮上都有不足, 其實PPP並非是引致市場爭拗的問題所在, 反而現階段未有清晰信息, 如西九龍文娛藝術區發展欠有關發展詳情, 才是引致爭論的主因。

基於此, 該學會高級副會長張達業指出, 對於近期政府有意以PPP興建沙田威院, 建議政府要先作深入研究, 尤其有關計劃會涉及醫療政策, 若處理不當會產生長遠問題。

何學強強調, PPP並非適用於所有發展項目, 按英國的經驗, PPP佔整體項目發展約10%, 由於錯誤應用PPP會為納稅人帶來損失, 因此政府應審慎處理, 避免濫用。

下周六舉行PPP國際講座

就PPP在公眾設施及服務的發展概念, 香港測量師學會將於下周六 (5月29日) 舉行國際性講座, 並邀請環境運輸及工務局長廖秀冬、合和主席胡應湘, 以及本地與海外相關專業人士發表演說, 全面探討有關課題。詳情可參閱香港測量師學會網址: <http://www.hkis.org.hk>



測量師學會認為, PPP對於資源不足、但又需要提供公營設施或服務的國家, 有著重要的協助角色, 不過當中的重點在於應用是否恰當。圖中為該學會會長謝偉銓。
(曾悠攝)

PPP合作模式主要特徵

- 私營機構合作投資公共基礎設施, 並為公營部門或公眾社會提供非核心設施或服務。
- 公營部門保留為公眾提供基本核心服務 (如醫療服務) 的責任及承擔。
- 公營部門及私營機構簽署長期合作協定, 公營部門只需根據協定條款及特定服務標準的需求, 向私營合作伙伴支付款項。

Guests and Delegates

Guests

<u>NAME</u>		<u>ORGANIZATION</u>	<u>TITLE</u>
PROF BALDWIN	ANDREW	FACULTY OF CONSTRUCTION AND LAND USE, HONG KONG POLYTECHNIC UNIVERSITY	ASSOCIATE DEAN
Ir Dr CHAN	SIU KUN	HONG KONG INSTITUTION OF ENGINEERS	PRESIDENT
PROF CHAU	K W	FACULTY OF ARCHITECTURE, THE UNIVERSITY OF HONG KONG	DEAN
CHONG	MICHAEL	ARCHITECTURAL SERVICES DEPARTMENT	CHIEF PROJECT MANAGER
KWAN	P L, JP	TERRITORY DEVELOPMENT DEPARTMENT	PROJECT MANAGER / KOWLOON
KWONG	ANNA	HONG KONG INSTITUTE OF ARCHITECTS	HON SECRETARY
HON LAU	PC	LEGISLATIVE COUNCIL	LEGISLATIVE COUNCILOR
LEE	FOOK PUI BILLY	THE CHARTERED INSTITUTE OF BUILDING (HONG KONG)	VICE-PRESIDENT
LINTERN-SMITH	MICHAEL	THE LAW SOCIETY OF HONG KONG	PRESIDENT
MAK	EUNICE	HONG KONG INSTITUTE OF PLANNERS	HON TREASURER
MOUNTAIN	TERRY	TERRITORY DEVELOPMENT DEPARTMENT	ASSISTANT DIRECTOR
SATO	TAKAYOSHI	BUILDING SURVEYORS INSTITUTE OF JAPAN	PRESIDENT
SO	FRANKIE	HONG KONG INSTITUTE OF FACILITY MANAGEMENT	PRESIDENT
TAM	KING LEUNG	HONG KONG INSTITUTE OF CONSTRUCTION MANAGERS	PRESIDENT
TSO	THOMAS, JP	HOUSING, PLANNING AND LANDS BUREAU	DEPUTY SECRETARY
WONG	ANISSA, JP	LEISURE AND CULTURAL SERVICES DEPARTMENT	DIRECTOR
WU	MARCO, JP	BUILDINGS DEPARTMENT	DIRECTOR

Delegates

<u>NAME</u>	<u>ORGANIZATION</u>
AU HO BUN REX	HOUSING DEPARTMENT
AU PAK YIN SAMMY	CHUN WO CONSTRUCTION & ENG CO LTD
AU YEUNG KA YEE	HONG KONG LAND LTD
AU YEUNG LAP YAN	KOWLOON-CANTON RAILWAY CORP
BANCROFT PETER	GAMMON SKANSKA LTD.
CHAN CHE BUN ANDERSON	BUILDINGS DEPARTMENT
CHAN CHOI HING	LEVETT & BAILEY
CHAN FAT YAU	ARCHITECTURAL SERVICES DEPT
CHAN KA KUI	KKC CONSULTANTS LTD
CHAN MEI YUNG	ISG ASIA (HK) LTD
CHAN NGAI SHING, DAVID	SHUI ON BUILDING CONTRACTORS
CHAN PI YIN	HYSAN DEVELOPMENT CO. LTD.
CHAN PI YIN	MASS TRANSIT RAILWAY CORP
CHAN PUI MAN CLAUDIA	BUILDINGS DEPARTMENT
CHAN SAN CHI, SUNNY	KOWLOON-CANTON RAILWAY CORP
CHAN SOU KAI	YAU LEE CONSTRUCTION CO. LTD.
CHAN WAI YAN	ARCHITECTURAL SERVICES DEPT.
CHAN WANG CHOY	CHIU HING CONSTR. & TRANSPORTATION CO.
CHAN WING TAK	TERRITORY DEVEDLOPMENT DEPT.
CHAN YIU TAI	THE CHINESE UNIVERSITY OF HONG KONG
CHAN YUEN KWONG	PAUL Y – ITC MANAGEMENT LTD
CHAN BERNARD	HONG KONG INSTITUTE OF SURVEYORS
CHAN SUNNY	HONG KONG INSTITUTE OF SURVEYORS
CHANG YU CHAU	KOWLOON-CANTON RAILWAY CORP
CHAU SAI HUNG	MASS TRANSIT RAILWAY CORP
CHENG GEORGE	MAEDA CORP.
CHENG KING FAI	BERIA CONSULTANTS LTD
CHENG SUM HING	WIDNELL LTD
CHEUNG HING WAN	TERRITORY DEVELOPMENT DEPT.
CHEUNG KIN HUNG GRACE	DAVID C LEE SURVEYORS LTD
CHEUNG SAI ON	CITY UNIVERSITY OF HONG KONG
CHEUNG YU LUN	VOCATIONAL TRAINING COUNCIL
CHIANG YAT HUNG	HONG KONG POLYTECHNIC UNIVERSITY
CHIN SAU WAN VICKY	HONG KONG HOUSING AUTHORITY
CHIU YING, DELLA	HALCROW CHINA LTD.
CHONG CHUNG ON CALVIN	MAUNSELL CONSULTANTS ASIA LTD
CHOW MAN YEE	LANDS DEPARTMENT

Delegates (Cont'd)

<u>NAME</u>	<u>ORGANIZATION</u>
CHOW SIU YIN	BUILDINGS DEPARTMENT
CHOW YING	HALCROW CHINA LTD.
CHU KOON TIN TONY	BUILDINGS DEPARTMENT
CHU SHIU YAN FIONA	TOURISM COMMISSION
CHU SUI KIN ALBERT	HONG KONG TOURISM BOARD
CHUI MAN LUNG	YAU LEE CONSTRUCTION CO. LTD.
CHUI YIM KWONG	ARCHITECTURAL SERVICES DEPT.
CHUNG BARNABAS	HONG KONG INSTITUTE OF SURVEYORS
CORRIGALL JOHN STANLEY	LANDS DEPARTMENT
DOHERTY EDWARD	GAMMON SKANSKA LTD.
FAULKNER DAVID NICHOLAS	COLLIERS INTERNATIONAL (HONG KONG) LTD
FOK KWAI CHUEN	BUILDINGS DEPARTMENT
FRANKS RODNEY	HSIN CHONG CONSTRUCTION
FUNG MAN FAI RONALD	BUILDINGS DEPARTMENT
FUNG TAK KEUNG	HOUSING DEPARTMENT
GABRIEL CHRISTOPHER DAVID	HOUSING DEPARTMENT
HARRAD BERNARD WILLIAM	URBAN RENEWAL AUTHORITY
HAU HON FAI, PATRICK	ARCHITECTURAL SERVICES DEPT.
HILL JULIAN	MINTER ELLISION
HO CHI WAI	URBAN RENEWAL AUTHORITY
HO CHUI YIN LIWINA	HYDER CONSULTING LTD
HO KA LEUNG	KOWLOON-CANTON RAILWAY CORP
HO KAI KWOK	HOUSING DEPARTMENT
HO KAM MING PETER	DAVIS LANGDON & SEAH (HK) LTD
HO KAM WAH, IRENE	HOSPITAL AUTHORITY
HO THOMAS	GAMMON SKANSKA LTD.
HO WAI MAN	CHINA STATE CONSTRUCTION ENGINEERING
HUNG CHEUNG SHEN	CHINA STATE CONSTRUCTION ENGINEERING
HUNG LING CHI	BUILDINGS DEPARTMENT
JOHNSTON MALCOLM JAMES	DAVIS LANGDON & SEAH (HK) LTD
KAM KA FAI RAYMOND	TREASUREX LIMITED
KAN FRED	FRED KAN & CO.
KEI YIN LAM	ARCHITECTURAL SERVICES DEPT
KONG WING YEE	HONG KONG HOUSING AUTHORITY
KOWK GILBERT	HONG KONG INSTITUTE OF SURVEYORS

Delegates (Cont'd)

<u>NAME</u>	<u>ORGANIZATION</u>
KU DAMIEN	T.C.I.E. (HK) HOLDINGS LTD.
KWOK KIM SANG EVENLYN	NORTHCROFT HONG KONG LTD
LAI CHI CHEUNG	NORTHCROFT HONG KONG LTD
LAI CHIN PANG	AIRPORT AUTHORITY
LAI YU WAH	HOUSING DEPARTMENT
LAM CHEUNG THOMAS	BUILDINGS DEPARTMENT
LAM HIU MING	COLLIERS INTERNATIONAL
LAM HO MAN	COLLIERS INTERNATIONAL
LAM LI WAH	HOUSING DEPARTMENT
LAM TSUN IP	HONG KONG POLYTECHNIC UNIVERSITY
LATTER ROBERT JAMES	NISHIMATSU CONSTRUCTION CO LTD
LAU DANNY	HOUSING, PLANNING & LANDS BUREAU
LAU PIK YING	HONG KONG HOUSING AUTHORITY
LAU PUI LING, PAULINE	KOWLOON-CANTON RAILWAY CORP
LAU SARENA	HONG KONG INSTITUTE OF SURVEYORS
LAU VICTOR	HONG KONG INSTITUTE OF SURVEYORS
LAU WING SHING	CHINA STATE CONSTRUCTION ENGINEERING
LAW WAI TAI	HSIN CHONG CONSTRUCTION CO LTD
LEE COLIN BERNARD	BRIAN E RAWLING & ASSOCIATES
LEE KING FUN, ANDREW	ANDREW LEE KING FUN & ASSOCIATES
LEE KWOK CHUEN	BRIGHTSPECT LTD
LEE KWOK FAI	SHUI ON BUILDING CONTRACTORS LTD
LEE SHIU CHUEN, ANDY	URBAN RENEWAL AUTHORITY
LEE TZE KWAN PATRICIA	KOWLOON-CANTON RAILWAY CORP
LEUNG CHI TIM ROBIN	BUILDINGS DEPARTMENT
LEUNG CHIN PANG	BUILDINGS DEPARTMENT
LEUNG TAK MING	URBAN RENEWAL AUTHORITY
LI HO KIN	HOUSING, PLANNING & LANDS BUREAU
LI PETER	HONEYWELL LTD.
LI STEPHEN	HONG KONG INSTITUTE OF SURVEYORS
LI YAM YEE FREDDY	BUILDINGS DEPARTMENT
LIM WAI CHING VINCENT	CITY UNIVERSITY OF HONG KONG
LIN CHIEH	
LIN MING YING	KOWLOON-CANTON RAILWAY CORP
LIU WAI HUNG	BUILDINGS DEPARTMENT
LO HING HUNG	JONES LANG LASALLE LTD

Delegates (Cont'd)

<u>NAME</u>		<u>ORGANIZATION</u>
LO	WAI KWONG PATRICK	LANDS TRIBUNAL
LO	WAI YING	URBAN RENEWAL AUTHORITY
LO	WING TAI	HOUSING DEPARTMENT
LUI	C W ALEX	HYSAN DEVELOPMENT CO. LTD.
MAK	CHI KONG	LEIGHTON CONTRACTOR ASIA LTD.
MAK	KA LAI	HONG KONG HOUSING AUTHORITY
MAK	NAI CHEONG	HOME AFFAIRS DEPARTMENT
MAN	ANTONY	HONG KONG INSTITUTE OF SURVEYORS
MAN	CHI HO	KOWLOON-CANTON RAILWAY CORP
MAN	HOI LEUNG, ALAN	BLACK & VEATCH HK LTD.
MAN	PUI KWAN	FOREWIN CONSULTANTS LTD
MILLS	CHRISTOPHER SEABROOK	LANDS DEPARTMENT
MOK	HO TUNG	UNIVERSITY OF HONG KONG
MONG	KWOK KEUNG	LAW & PARTNERS LTD
NAM	CHI KWONG	URBAN RENEWAL AUTHORITY
NG	GORDON	HONG KONG INSTITUTE OF SURVEYORS
NG	KEVIN	SIMON KWAN & ASSOCIATES LTD.
NG	LAM KIN LAWRENCE	AIRPORT AUTHORITY
NG	MEI LING	SWIRE PROPERTIES LTD
NG	PELENE	BUILDINGS DEPARTMENT
PAN	DON	HALCROW CHINA LTD.
PANG	HON WAH	HOUSING DEPARTMENT
POON	SHIU CHUNG, JACKY	HCCG CHINA HOLDINGS LTD.
READER	STEVEN	AMCC
SHEK	PETER	HALCROW CHINA LTD.
SO	YAU CHI	YAU LEE CONSTRUCTION CO. LTD.
SUNG	FISHER IRENE MARY	HOUSING DEPARTMENT
TAM	KUEN WAI	FURGO (HK) LTD.
TAM	WING CHEUNG	BUILDINGS DEPARTMENT
TANG	KI CHEUNG	K C TANG CONSULTANTS LTD
TANG	KWAN LAM	URBAN RENEWAL AUTHORITY
TANG	WAI KWONG	BIBTIE ASIA LTD
TSANG	SZE KI	HONG KONG HOUSING DEPARTMENT
TSANG	WAI CHUNG, HANNIEL	KOWLOON-CANTON RAILWAY CORP
TSUI	HOI YUEN	ESRI CHINA (HONG KONG) LTD
TSUI	SIU LUNG	KTI (ASIA) BUILDING CONSULTANTS LTD

Delegates (Cont'd)

<u>NAME</u>	<u>ORGANIZATION</u>
TUNG YAU MING	JAMES R KNOWLES (HK) LTD
WAI MAN FAI, JACKSON	ARCHITECTURAL SERVICES DEPT.
WAN CHI YIN	HOUSING DEPARTMENT
WAN SHIU WAH WILLIAM	AIRPORT AUTHORITY
WAN TONY	HONG KONG INSTITUTE OF SURVEYORS
WANG JIAN SHENG	CHINA RESOURCES CONSTRUCTION
WONG CHI FUNG ALEX	HONG KONG POLYTECHNIC UNIVERSITY
WONG CHI WAI	ARCHITECTURAL SERVICES DEPT
WONG CHUNG FAT	WIDNELL LTD
WONG HO MING	KOWLOON-CANTON RAILWAY CORP
WONG HOK PUN, KENNETH	CHIU HING CONSTR. & TRANSPORTATION CO.
WONG KAM SING	MASS TRANSIT RAILWAY CORP
WONG KOON HUNG ALBERT	URBAN RENEWAL AUTHORITY
WONG KWOK HING ANTHONY	HOUSING DEPARTMENT
WONG KWONG SANG	BUILDINGS DEPARTMENT
WONG MAU ON FELIX	PBA
WONG MEE HEUNG	MASS TRANSIT RAILWAY CORP
WONG OI YEE CYNTHIA	COLLIERS JARDINE (HK) LTD
WONG SIU HUNG	BUILDINGS DEPARTMENT
WONG TERESE	HYSAN DEVELOPMENT CO. LTD.
WONG TUNG WAI, RICARDO	HONG KONG HOUSING AUTHORITY
WONG WAI KEUNG	HOUSING DEPARTMENT
WONG WAI KUEN	URBAN RENEWAL AUTHORITY
WONG WAI NAN	HING KEE CONTRACTING LTD.
WONG YUEN LING JESSICA	BUILDINGS DEPARTMENT
YAU KONG FOO	URBAN RENEWAL AUTHORITY
YAU WAI KWAN	ARCHITECTURAL SERVICES DEPT
YEUNG KAM LAN	CITY UNIVERSITY OF HONG KONG
YEUNG KWONG FAI, ALFRED	KOWLOON-CANTON RAILWAY CORP
YEUNG MAN KAI	SHUI ON PROPERTIES MGT LTD
YIP SO, ANDY	BUILDINGS DEPARTMENT
YUNG KAI WING JOHNNY	HONG KONG HOUSING AUTHORITY
ZHANG YI FENG	CHINA STATE CONSTRUCTION ENGINEERING

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Hong Kong Institute of Architects
Hong Kong Institution of Engineers
Hong Kong Institute of Planners
The Law Society of Hong Kong
Hong Kong Institute of Facility Management
Hong Kong Construction Association Limited
Hong Kong Institute of Construction Managers
The Chartered Institute of Building (Hong Kong)
The University of Hong Kong, Faculty of Architecture
The Hong Kong Polytechnic University, Faculty of Construction and Land Use
City University of Hong Kong, Department of Building and Construction

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