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Team of Specialists on Public-Private Partnerships

Seventh session

London (United Kingdom), 18 June 2015

Item 3 of the provisional agenda

Developing international standards and best practices in Public-Private Partnerships (PPPs)

Conference room paper submitted by the Secretariat

Incorporating PPP into a Health Policy Framework

Note by the secretariat

The following paper has been prepared by the Healthcare Policy Project Team led by Mr. Peter Ward and is circulated for information under Item 3 of the annotated provisional Agenda.

This paper is being circulated by the secretariat as received from the project team.

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UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE
TEAM OF SPECIALISTS ON PUBLIC-PRIVATE PARTNERSHIPS (TOS PPP)

Proposed Draft

UNECE PPP STANDARD FOR HEALTHCARE POLICY

SOURCE: Healthcare Policy Project Team
ACTION: Interim draft
STATUS: Draft v0.1

33 Introduction

34 The Sustainable Development Goals (“SDG”s) identify a range of measures to promote
35 healthy lives and wellbeing for the world’s population, along with an emphasis on the need
36 for sustainable development and clear mechanisms for implementation. Recognising that
37 there is a significant need for investment by governments to achieve these objectives,
38 UNECE supports the use of global partnerships for sustainable development and has
39 produced this Standard to provide guidance to governments considering the use of Public-
40 Private Partnership (PPP) programmes to deliver investment in healthcare infrastructure as
41 a way of meeting SDG3: “Ensure healthy lives and promote wellbeing for all at all ages”.

42 If managed well, PPP programmes can help governments tackle development needs by
43 bringing sustainable investment and expertise to complex systems, supporting the
44 successful implementation of healthcare policy, improving access to basic healthcare
45 services, giving patients the best care in an appropriate setting, and making healthcare staff
46 feel valued and fulfilled.

47 There are many models of PPP in the healthcare sector worldwide. The challenge for
48 governments developing a PPP programme is to ensure their PPP policy is consistent with
49 their healthcare policies and delivery strategy, and allows them to provide good quality
50 universal coverage, helping them to achieve the Sustainable Development Goals, alleviate
51 poverty and provide universal access to healthcare for their population.

52 This UNECE Standard offers guidance on best practice in relation to the development and
53 implementation of Public-Private Partnership (PPP) programmes in the healthcare sector,
54 under which capital investment in healthcare infrastructure (hospitals, clinics etc.) and
55 systems such as medical equipment and information / communication technology (ICT) are
56 funded using commercial finance repaid over a long-term concession period. Projects
57 delivered in this way range from acute hospitals, mental healthcare facilities and community
58 clinics, diagnostic and treatment centres to outreach services such as dialysis and
59 radiotherapy centres. The Standard does not apply to partnerships to deliver healthcare
60 services (without the need for capital investment); real estate transactions; or leasing
61 arrangements.

62 For the purpose of this Standard, the term PPP programme is defined as a framework or
63 series of projects under which a public authority grants long term contracts (with a duration
64 exceeding 10 years) to a private sector partner for the design, financing, construction or
65 refurbishment and operation of healthcare facilities. The term ‘public authority’ may include
66 a government department, a statutory provider of health services, a regulator or a health
67 insurer. The operation of those facilities may include the provision of services (which may
68 include clinical services, the supply and operation of medical equipment, management and
69 maintenance of the facilities and the provision of non-clinical services such as cleaning and
70 catering). Under the terms of these contracts, the private sector partner will raise private
71 capital to pay for the new facilities, which will be repaid by a lease or rental fee or a service
72 concession from the public authority provided that the facilities and services meet a specified
73 outcome standard.

74 Its recommendations are based on a UNECE project which took place between June 2014
75 and June 2015, managed by a multidisciplinary team of experts with experience of PPP
76 programmes and sustainable development. The project comprised a review of published
77 information, and responses to detailed questionnaires from public and private sector
78 organisations with experience of programmes of this kind, whose contribution is gratefully

79 acknowledged. Recommendations are aimed at national and provincial governments
80 considering the delivery of PPP programmes in the healthcare sector.

81 We are very grateful for the active contribution of agencies in the following countries in
82 particular who contributed to the development of the standard by responding to detailed
83 questions on their own experience:

- 84 • The Commonwealth of Australia
- 85 • The People's Republic of Bangladesh
- 86 • Canada
- 87 • The Federal Republic of Germany
- 88 • The Republic of India
- 89 • Latvia
- 90 • The Islamic Republic of Pakistan
- 91 • The Portuguese Republic
- 92 • The United Kingdom
- 93 • The Eastern Republic of Uruguay

94

95 The full list of projects and programmes from which lessons and experience were considered
96 based on published information in the development of the Standard is available on the
97 project team website at <https://www2.unece.org/wiki/display/pppp/Health+Policy> for
98 governments seeking more detailed advice, experience and lessons learned from the
99 delivery of PPP programmes. The Standard will be maintained by UNECE and the
100 Healthcare PPP Centre of Excellence.

101 Recommendations are provided under six categories:

- 102 A. Policy and legislative framework
- 103 B. Economic context and affordability
- 104 C. Planning, objectives and business cases
- 105 D. Resourcing and training
- 106 E. Market assessment and engagement
- 107 F. Transparent procurement and management processes

108

109 **A. Policy and legislative framework**

110 **1. Ensure PPP policy and legislation is robust and consistent with other policies**

111 Governments should have a formal policy for the provision of healthcare services to their
112 population (“Healthcare Policy”), and a sustainable long term strategy for delivering it
113 (“Healthcare Strategy”). They should also prepare a development programme for the
114 infrastructure that will support them (“Healthcare Infrastructure Development Programme”),
115 within which a PPP programme may play a part. Both the Healthcare Strategy and the
116 Healthcare Infrastructure Development Programme should be based on objective evidence
117 of the supply and demand for healthcare services within the government’s jurisdiction and
118 set out the reasoning behind the quantity, quality, size, geographical and social distribution
119 of healthcare facilities to be provided. The Healthcare Policy, Healthcare Strategy and
120 Healthcare Infrastructure Development Programme should be consistent with World Health
121 Organisation guidelines and government strategy and commitments to initiatives such as the
122 SDGs.

123 The policy and legislative framework for a PPP programme in the healthcare sector should
124 be consistent with governments’ Healthcare Policy and economic and fiscal policy. A formal
125 PPP policy assessment should be completed at the PPP programme’s outset to identify
126 potential conflicts between PPP policy and legislation and any established policies,
127 regulations and legal frameworks including legislation and common law. An action plan
128 should be developed identifying any enabling legislation (such as a PPP-specific law
129 allowing governments to grant the appropriate concessions and assume debt in the event of
130 termination).

131 As part of this policy assessment, the tax and accounting treatment of PPP projects should
132 be determined and the government’s taxation policy and guidance should be aligned with its
133 PPP policy, but tax and accounting treatment should not drive the decision to implement a
134 PPP programme.

135 A key consideration of the policy assessment should be the extent to which the PPP
136 programme should include clinical services. If it will, the assessment should identify the
137 specific objectives in doing so, the evidence that the PPP programme will achieve them and
138 the most appropriate public counterparty to ensure the programme’s viability. If the risk of
139 clinical service activity volumes is expected to transfer to the private sector, the government
140 should identify how payment (by public or private health insurers, or the service users) will
141 be guaranteed.

142 The government should enact any legislation necessary to enable the PPP programme,
143 which often includes PPP-specific laws. Legislation should comply with the UNCITRAL
144 Legislative Guide on Privately Financed Infrastructure Projects, and Model Legislative
145 Provisions on Privately Financed Infrastructure Projects and should be permissive rather
146 than restrictive.

147 While the PPP policy assessment should provide a clear framework for the development of
148 the policy it should not impose too much legislative rigidity early in the programme’s life, in
149 order that lessons from early projects can be adopted.

150 **2. Prepare an evidence-based delivery plan**

151 In preparing for the PPP programme, governments should draw upon experience from other
152 jurisdictions and the UNDP’s Public-Private Partnerships for Service Delivery programme to

153 develop a robust and evidence-based PPP Delivery Plan. The plan should set out the
154 process to be followed in subsequent stages of the programme's life:

155 • Prior to the procurement of PPP projects, in developing a policy and legislative
156 framework; preparing standard documentation and guidance; carrying out a programme-
157 wide feasibility assessment and value for money analysis; developing an approval process
158 for Project Business Cases; consulting with potential lenders and other stakeholders;
159 assessing market demand; and ensuring the right resources and training are available.

160 • During procurement, to ensure projects remain affordable, value for money, and
161 consistent with the overall programme, policy and development strategy; and to ensure the
162 procurement process is fair and transparent.

163 • During construction, to ensure projects are delivered on time, to the specified
164 standards and within budget and continue to meet their brief.

165 • Before and during commissioning, to ensure that the staffing plan for the new
166 facilities is achieved, and that healthcare and operational staff understand how to work
167 efficiently in the new buildings to realise the project's objectives; that the transition to the
168 operational phase runs efficiently; that any cultural changes that are necessary are
169 implemented; and that changes elsewhere within the same health economy are delivered in
170 line with the Project Business Case.

171 • During the operational phase, to ensure that projects are managed transparently and
172 efficiently, and continue to deliver optimal value for money; and that major maintenance work
173 and any changes are managed efficiently and represent the best value for money.

174 The PPP Delivery Plan should be considered a 'live' document, and be subject to strategic
175 review at routine intervals aligned with the periodic review of Healthcare Strategy.

176

177 **3. Obtain formal support for the structure and policy from potential lenders**

178 Having developed the PPP Delivery Plan but before the proposed policy, legislation and
179 governance is implemented, governments should seek formal feedback on their proposals
180 from a representative range of potential funders with experience in the successful project
181 financing of completed projects with similar characteristics to the proposed programme.
182 Where investment is likely to be needed from international financial institutions, commercial
183 lenders and institutional debt from other jurisdictions, they should be consulted on the
184 proposed policy, legislation, standard documentation and guidance, structure and
185 counterparties, governance and risk transfer.

186 The programme should be tailored in response to feedback from those potential funders,
187 and actions taken in response should be published to provide potential bidders with
188 reassurance that there is institutional support for the programme before the procurement of
189 pilot projects begins. Market engagement with the broader private sector should continue
190 throughout the programme as described in section E, but specific engagement with potential
191 lenders as PPP policy is formulated will ensure the programme can be funded.

192 **4. Ensure that there is political and civil service support**

193 Before implementing the PPP programme the government should conduct a formal
194 assessment of political and public sector / civil service support for the programme. Any
195 constraints, conditions and objections raised within each relevant government department

196 and major political party should be addressed, resulting in formal support for the policy and
197 legislation necessary to enable the programme to be delivered, emphasising the need for
198 sustainable long term investment in healthcare facilities through PPP.

199 The PPP programme should be sponsored at a senior level within the government and civil
200 service, with key individuals identified to act as promoters of the programme across the
201 public and private sectors.

202 **5. Develop a focussed specialist office to manage the programme**

203 A specialist unit, team or department (“the PPP Unit”) should be established to manage the
204 development and implementation of the programme, with support from the finance and
205 healthcare ministries, and central and local government. The size of the unit should be
206 appropriate to the anticipated volume of projects, but may also be accountable for PPP
207 programmes in other sectors.

208 The PPP Unit should have clear terms of reference and act objectively in managing the
209 programme to maximise value for money for the public. It should be funded by a long term
210 budget that will sustain it through the delivery phase of the PPP programme and at least ten
211 years into its operational phase.

212 Initially focussed on ensuring that the necessary policies, capacity, guidelines, regulations
213 and legislation are in place to enable the programme, the PPP Unit should also:

- 214 • Act as the government’s expert resource on the implementation of the programme;
- 215 • Provide programme leadership and manage the development and implementation of
216 the programme;
- 217 • Identify any obligations that will remain with the public sector (such as the
218 recruitment, training and management of clinical staff to coincide with delivery of new
219 facilities);
- 220 • Approve business cases and ensure they are consistent with the guidance in Section
221 C;
- 222 • Ensure that arrangements are in place for administration of the contracts and
223 management of any risks that remain with the public sector through the development,
224 implementation and operational phases;
- 225 • Develop and implement a communication plan providing publicity around the
226 programme and projects, and evidence of a clear and well managed pipeline of projects as
227 described in E3 that is easily accessible and kept up to date.
- 228 • Ensure that sufficient resources and training are in place to manage the programme
229 as described in Section D;
- 230 • Manage any programme of capacity building as described in Section E, including the
231 training of indigenous private sector delivery, funding, technical and risk management
232 expertise;
- 233 • Production and maintenance of the risk allocation schedule described in E5; and
- 234 • Act as custodian of lessons learned from projects, and ensure that they are
235 implemented in new projects.

236

237 The PPP Unit should contain the resources necessary to develop and implement the
238 structure, processes, policies and legislation that will facilitate the programme and act as a
239 regulator in ensuring that projects comply with PPP policy and the Healthcare Infrastructure
240 Development Programme. The PPP Unit should be staffed by appropriately experienced
241 and trained staff, supported by external professional advisors with proven evidence of
242 success in delivering PPP projects in the healthcare sector into their operational phase. It
243 should comprise members drawn from the healthcare and finance civil service, and include
244 members with relevant, representative private sector expertise. It should include skills in the
245 fields of law, finance, project management, healthcare and social and environmental policy,
246 and technical specialists in the design, procurement, construction, commissioning and
247 operation of healthcare facilities. It should specifically include professional healthcare staff
248 with experience of managing facilities similar to those to be delivered under the PPP
249 programme.

250 **6. Establish a suite of standard procurement protocols and documentation**

251 A process framework, built on proven precedent, should be established within the PPP
252 Delivery Plan for the scoping, approval, procurement, delivery and management of the PPP
253 programme. This framework should include:

- 254 • Clear terms of reference for the governance and approval of the programme itself
255 and individual projects at each stage, including clear criteria against which approval will be
256 granted;
- 257 • Standard forms of Project Business Case for each project, objectively setting out
258 their scope, objectives and compliance with predetermined approval criteria;
- 259 • Standard processes for the management of procurement including standard forms of
260 procurement documentation, procurement timescales and evaluation criteria and the scope
261 for negotiation following selection of a preferred private partner;
- 262 • Standard processes for contract management and monitoring throughout the delivery
263 and operational phase; and
- 264 • Standard contract documentation including clear guidelines for its use and the extent
265 to which it can be varied to suit project-specific issues.

266

267 **B. Economic context and affordability**

268 **1. Carry out transparent business case assessments for each project**

269 Within the PPP Delivery Plan, the government should develop an overall financial and
270 economic model for the PPP programme that clearly sets out what it will cost and the
271 objective criteria for the financial, social, environmental and economic benefits it will yield.
272 Each project should be costed in outline terms prior to its commencement, and should only
273 proceed to procurement if it is affordable within the context of the Healthcare Infrastructure
274 Development Programme and represents the best value for money of the realistically
275 deliverable options.

276 Project Business Cases should take a standard form and be subject to approval at key
277 stages in their procurement and delivery against objective criteria as described under C2.

278 **2. Ensure the programme will enable competitive project financing**

279 In planning the PPP programme and as part of the consultation described under A3,
280 governments should carry out a formal assessment of potential sources of finance including
281 local and international commercial debt, international financial institutions (including
282 Development Finance Institutions and Export Credit Agencies), government debt and the
283 local and international capital markets. Due diligence should be carried out to assess what
284 obstacles exist to the use of multiple potential sources of funding for each project, and how
285 they will be overcome. Specific issues to be considered include the capacity and
286 sophistication of local contractors, the capacity and quality of the insurance market, and the
287 robustness of the contract structure and legal framework underpinning it. Where fiscal,
288 economic, taxation and other policies could constrain the availability of competitive finance,
289 consideration should be given to aligning them with PPP policy or procuring the programme
290 in a different way.

291 Each PPP project should be fiscally independent, and other than the arrangements agreed
292 when contracts are signed they should only be subsidised where there is demonstrable
293 value for money in doing so.

294 **3. Develop a standardised 'shadow' cost model against which to compare value**

295 Government should develop a robust and locally relevant system of capital and operating
296 cost benchmarks. This system should be used to establish transparent evidence that each
297 PPP project represents the best possible value for money as compared to alternative ways
298 of achieving its objectives – particularly the direct delivery of the same projects by the public
299 sector. If insufficient information is available, a system for making that comparison should
300 be agreed as part of the PPP Delivery Plan described in A2. The system should allow direct,
301 like-for-like comparison of all whole project life costs including insurance, maintenance
302 regimes, and historic evidence of public sector management of the delivery and
303 maintenance of capital projects of a similar size. Where there is insufficient evidence to
304 make a direct comparison, data should be gathered from equivalent economies or sectors
305 and transparent allowances made to ensure the system is appropriate to the size and scope
306 of the healthcare PPP programme.

307 The system should be developed in consultation with local and international contractors and
308 service providers, supported by suitably qualified advisors, as part of engagement with
309 potential tenderers described more fully in Section E. Where tenderers depart significantly
310 from benchmarked pricing, project teams should ensure they understand whether any

311 project-specific reasons have driven pricing to ensure the project scope is likely to deliver the
312 best value for money.

313 The cost system should reflect the requirements of national standards and policies for
314 government and private healthcare facilities and any regulations, legislation or guidance on
315 their use. It should be regularly indexed against published indices and to reflect pricing on
316 similar recent projects.

317 **4. Offer robust payment security that guarantees debt repayment**

318 PPP projects represent a long term public sector commitment. The government should
319 maximise value for money by offering bidders and investors formal instruments that provide
320 long term guarantees that payments will be made, and that a consistent approach will be
321 taken to concession management.

322 The PPP programme should be structured in such a way as to allow senior debt and other
323 long term commitments such as interest rate swaps to be assumed by government in the
324 event of a project failure leading to termination (less any costs that can be recovered from
325 other parties), and to compensate the private sector investors and service providers if
326 projects are terminated through no fault of their own. The terms under which senior debt is
327 assumed should be a matter of policy following a risk assessment once the consultation
328 described in A3 is completed, but should incentivise senior lenders to step in if junior
329 (subordinated debt and equity) investors default.

330 Payments may achieve this through sovereign guarantees, insurance, reserves, co-payment
331 commitments or other means but governments should obtain formal feedback on the
332 proposed payment security arrangements from a range of potential lenders as described
333 under A3.

334 **5. Establish robust long term governance structures and processes**

335 As part of the development of the PPP Delivery Plan, government should ensure that long
336 term budget provision is made for the governance and management of the programme
337 throughout its term, as part of its long term financial planning for the national and local
338 healthcare economy. Payments under PPP project agreements should be clearly
339 hypothecated and independent of political influence.

340 **6. Develop an economic framework for fiscal commitments**

341 A framework should be established to manage government commitments arising from the
342 PPP programme, including fiscal commitments such as ongoing subsidies or payments, and
343 contingent liabilities such as guarantees. The framework should be dynamic and include
344 review mechanisms which allow the government to evaluate government support
345 agreements and exposure to liabilities under the PPP programme in the context of the rest of
346 their economy.

347

348

349

350 **C. Planning, objectives and business cases**

351 **1. Develop a clear planning context for the PPP programme**

352 Before starting a PPP programme, governments should develop a Healthcare Strategy and
353 Healthcare Infrastructure Development Programme as described in A1. As a minimum
354 these should include a health needs assessment to fully assess current and future supply
355 and demand for healthcare services in the project or programme demographic area. They
356 should assess and consider national and local health trends and demands, population risk
357 factors, disease prevalence and demography-related medical care as well as the size and
358 condition of the existing healthcare infrastructure.

359 The role of PPP within the Healthcare Infrastructure Development Programme should be
360 defined in the PPP Delivery Plan as described in A2, with a clear timescale for
361 implementation. Having done so, the Healthcare Infrastructure Development Programme
362 should be published alongside those aspects of the programme to be delivered using PPP or
363 the process by which the suitability of PPP as a delivery vehicle will be assessed, including
364 specified approval points for Project Business Cases at a strategic/initial, interim and final
365 stage before construction begins.

366 **2. Establish clear and objective approval processes**

367 The PPP Delivery Plan should include a process for stakeholder engagement and formal
368 government approval of each PPP project at key stages in its development, to ensure that it:

- 369 • Is consistent with the Healthcare Infrastructure Development Programme and PPP
370 Delivery Plan;
- 371 • Is consistent with economic and fiscal policy;
- 372 • Is affordable within budget;
- 373 • Has the support of stakeholders including patients and healthcare professionals;
- 374 • Represents the best value for money of the realistic options available; and
- 375 • Has a coherent and realistic delivery plan, built on market evidence.

376 These approvals should be granted as a minimum at the following stages:

- 377 • Following the identification of a proposed strategic solution, but before the
378 development of a Project Business Case;
- 379 • Before procurement begins; and
- 380 • Before signing contracts with the preferred partner.

381 **3. Establish a robust format for business cases**

382 Projects within the PPP programme should each have a robust Project Business Case
383 setting out the project's description, rationale, objectives and measures of success. Project
384 Business Cases should follow a standard format, which is updated at each approval stage
385 described above.

386 The format of Project Business Cases should consider of the economic, social,
387 environmental, commercial and legal context of the projects and compare the relative

388 benefits and value for money represented by delivering them under the PPP programme
389 against alternative options on a like-for-like basis.

390 In developing the format for Project Business Cases to be adopted, governments should
391 draw on experience from other jurisdictions as described under A2. Project Business Cases
392 should clearly set out the objectives, measurable benefits or outcomes and key success
393 factors for each project, the role of each of the institutions that will participate, and the
394 allocation of risks between them.

395 Project Business Cases should be subject to independent audit or review of the
396 assumptions underlying them at key points in their development. Upon completion and
397 commissioning of the projects, the actual benefits or outcomes and key success factors
398 should be assessed against those in the Project Business Case approved prior to Financial
399 Close, and this information should be published to provide lessons for future projects and
400 improve market confidence in the PPP programme.

401 Each Project Business Case should include a detailed transition plan setting out
402 arrangements for the transfer of services to the new facilities and/or service arrangements.

403 Project Business Cases themselves should be published except where information they
404 contain would be prejudicial to the competitiveness of tenders.

405 **4. Use clear and objective output-based specifications**

406 By the time projects are approved to begin procurement, each Project Business Case should
407 feature output-based specifications (identifying what the government actually wants from
408 delivery of the project services, rather than how they are to be performed) that set the
409 performance standards for the project. These should be directly related to the government's
410 Healthcare Infrastructure Development Programme and Healthcare Strategy, and any
411 national standards for healthcare facilities. They should be capable of objective
412 measurement, with clear and realistic contractual sanctions on the private sector partner if
413 they are not achieved.

414 Standard output specifications should be developed, initially based on lessons from other
415 jurisdictions as described under A2 but then developed based on experience from pilot
416 projects. Output specifications should be clearly defined and measurable, and only relate to
417 issues that genuinely affect the ability of the authority to deliver public services in
418 accordance with the Healthcare Strategy.

419 **5. Consider the use of a 'Reference Solution'**

420 The PPP Delivery Plan and process for the development of Project Business Cases should
421 include consideration of the advantages and disadvantages of developing a Reference
422 Solution as part of the development of the Project Business Case. Reference Solutions are
423 design and implementation solutions developed by the public sector before procurement
424 begins, and can be helpful in articulating the scope and specification of projects, and better
425 understanding likely costs and risks. Any Reference Solution should clearly identify how it
426 meets the PPP programme's objectives, particularly service quality and performance
427 improvements if clinical services are included in the programme. They should be shared
428 with tenderers, except where information they contain is likely to compromise the
429 competitiveness of tenders or restrict their ability to present alternative solutions that achieve
430 the specified outcomes.

431 Reference Solutions should include a protocol to determine the point to which work on a
432 Reference Solution is completed ahead of procurement, which offers the best balance
433 between the need to clarify the project's needs and expectations, and the ability of tenderers
434 to offer alternative solutions which meet the project's requirements. If project teams elect to
435 develop a Reference Solution, they should appoint suitably qualified specialists, designers
436 and advisors to develop a Reference Solution before the procurement phase commences.

437 **6. Incorporate robust business case risk allocation and value for money**
438 **assessment**

439 Project Business Cases should include a value for money analysis that compares the PPP
440 model against the cost of delivering and operating the facility using alternative means. These
441 should include an objective comparison with the likely cost and risk of delivery using public
442 sector resources, which is externally audited or reviewed. The process for doing so should
443 draw on experience from other jurisdictions as described under A2 and should be supported
444 by suitably experienced advisors under the oversight of the PPP Unit.

445 PPP contracts should specifically feature a simple and efficient process for making changes
446 during the life of the concession. Standardised documents should include a change process
447 which makes the adaptation of PPP hospitals no more expensive in whole-life terms than
448 equivalent traditionally procured infrastructure which is managed to the same standards.
449 Project Business Cases should specifically consider the cost and operational implications of
450 adapting services and facilities to changing healthcare needs.

451

452

453 **D. Resourcing and training**

454 **1. Develop a coherent staffing & training policy**

455 Prior to commencing procurement, the government should carry out a formal assessment of
456 current and future staffing needs for any new services and facilities to be included in the
457 programme, to meet the aims of the Healthcare Strategy. This should include the staff to be
458 provided by the public sector to projects delivered under the PPP programme. In parallel
459 with the development of the PPP projects, a programme of recruitment and training should
460 be implemented to ensure that suitable staff are available when the facilities are completed.
461 This should include an assessment of currently available staff and the likely pipeline of new
462 staff. Where there is a short term need for a substantial increase in skilled staff, government
463 should comply with ILO guidance on the national and international movement of personnel
464 and ensure that these plans are consistent with immigration regulations, and plans should be
465 made to train sufficient staff to provide healthcare services sustainably in the long term.

466 If the PPP programme includes clinical services, the risk of providing suitably trained staff
467 would normally transfer to the private sector operator upon their appointment. There should
468 be very clear protocols setting out the respective roles of government and the private sector
469 in providing and subsidising training for staff, particularly clinical and operational staff.

470 Where there is a requirement for staff to transfer from the public to the private sector under
471 the PPP programme, it should include measures to protect their statutory rights and
472 employment terms and conditions where appropriate under law.

473 Where the public sector intends to retain the provision of clinical (or other) services, they
474 should ensure that the design of the PPP projects will not compromise the terms, conditions
475 and statutory rights of the staff who deliver them.

476 **2. Plan programme management resources and training**

477 Prior to the implementation of a PPP programme, governments should develop a resource
478 plan setting out the people and costs that will be needed to implement it successfully on
479 behalf of the public sector. The timing and key skills needed for each role should be clearly
480 identified, and suitable funding made available for the recruitment and continuing
481 professional development of those staff. The resource plan should cover the development of
482 PPP legislation and policy, the scoping of the programme and production of Project
483 Business Cases, the procurement of projects, their delivery and commissioning, and their
484 operation in the steady state.

485 Teams need support in advance of a PPP programme to gain understanding and experience
486 and to develop a clear vision of what they wish to achieve. Whilst consultants will support
487 this, the culture and drive will come from leadership within the health and finance Ministries,
488 the PPP Unit and project teams, who must be trained accordingly – particularly if they have
489 not previously worked on PPP programmes or similarly complex projects. The PPP Delivery
490 Plan should feature clear plans for training staff, including the use of external courses,
491 mentoring and practical learning from other jurisdictions in the application of lessons learned.
492 “Refresher” training should be mandated for all programme and project staff throughout the
493 programme, to ensure that they keep abreast of PPP market developments and ensure that
494 standard contract, risk, management and procurement methodologies are applied
495 consistently.

496 A critical success factor in the delivery of PPP programmes is strong leadership. The
497 government should identify and empower leaders within the PPP Unit and elsewhere within

498 government to support strong partnerships with government departments, particularly those
499 with responsibility for healthcare and finance. There should be a sustainable succession
500 plan for the programme and project leadership, under which a training programme develops
501 the leaders needed to deliver the programme successfully throughout its term.

502 Each project team should have a designated leader, the Project Director. The Project
503 Director is a critical role, whose experience and understanding of the PPP programme and
504 processes and how they align with the Healthcare Strategy and Healthcare Infrastructure
505 Development Programme are vital. Project Directors should have experience of a least one
506 health PPP or major complex project previously and have received formal training in the
507 objectives of the Healthcare Strategy.

508 The planning of resources and training for the transition of services into the new facilities
509 and/or arrangements for healthcare service delivery is particularly important. The Project
510 Business Case should include detailed arrangements for the transition phase, and
511 appropriate resources and training should be provided for its implementation.

512 **3. Ensure that the model and process is clearly understood by stakeholders**

513 Clear understanding of the Healthcare Strategy and Healthcare Infrastructure Development
514 Programme are essential in the early planning stages of a PPP programme. These should
515 be linked to an understanding of the key risks inherent within a healthcare PPP project,
516 especially if it includes clinical services. Where governments have a limited PPP track
517 record, they should draw on experience from other jurisdictions as described under A2 and
518 make use of suitably experienced advisors.

519 Before the PPP programme is implemented, a formal advocacy plan setting out how
520 politicians, public/civil servants, patients, clinicians, other healthcare staff and any other
521 stakeholders will be consulted in the development of the programme should be developed
522 and discussed with those stakeholders. Where there are potential gaps or overlapping
523 responsibilities in accountability among stakeholder groups, a plan should be developed to
524 overcome them.

525 It is particularly important to communicate clearly with healthcare professional groups about
526 the Healthcare Strategy and how it will improve population health, and the role of the PPP
527 programme in delivering it.

528 With their knowledge of local conditions and traditions, local stakeholders are particularly
529 important. Their advice should be sought on how to adapt best practice to suit local needs,
530 expectations and constraints.

531 **4. Build strong, objective commercial understanding into project teams**

532 Project teams should develop a clear understanding of the field of potential private sector
533 firms that will potentially tender for the projects, and the commercial drivers of those firms.
534 This should include their potential interaction (for example, the respective surety bonding
535 expectations of contractors and lenders) to ensure that projects will be realistically
536 deliverable. To do this they should draw on experience from other jurisdictions as described
537 under A2 and make use of suitably experienced independent advisors who have participated
538 in successful healthcare PPP projects previously and have an objective, demonstrable
539 understanding of the way locally relevant commercial organisations operate; their appetite
540 for risk and speculative costs; their commercial maturity; and their contractual expectations.
541 To support this, project team members should actively engage in the market engagement
542 programme described in E1.

543 **5. Develop a robust induction and support programme for stakeholders**

544 A stakeholder engagement plan should be developed for each project, incorporating plans
545 for engagement with key clinical, management and public/civil service stakeholders (and any
546 other stakeholders needing to participate in the development of the project and the
547 preparation of the Project Business Case). Those stakeholders should be inducted, with
548 training to clearly explain what their involvement will be and how it will influence the project's
549 outcome, as well as clearly defining the critical parameters that the project must operate
550 within in terms of timescales, risk and affordability. The terms of reference and scope of
551 their involvement should be clearly explained and formally agreed with them. As part of the
552 development programme described under D2, each project team should receive training in
553 the management of stakeholders, and specifically healthcare professionals, in order that
554 project teams clearly understand their challenges and priorities.

555 **6. Carefully plan projects requiring staff transfer**

556 An appropriate HR strategy should be developed for any projects requiring the transfer of
557 clinical, management or Facilities Management staff from the public sector to the private
558 sector or between private sector providers under the PPP programme, because its success
559 can be affected by employees' statutory rights and by legal, cultural and political
560 considerations. Specialist advisory support in developing the strategy may be required
561 where transferring staff to private sector organizations is complex and there is a risk of an
562 adverse impact on long term service delivery if the staff transfer is not managed effectively.
563 This should include the development of a communications strategy that enables staff
564 engagement and explains clearly the programme's objectives, and how it will improve
565 population healthcare.

566 Any transfer of clinical services requires a clear understanding of how the private sector
567 partner will maintain quality of service delivery - including training - alongside the
568 development of long term, sustainable staffing plans. This must have support from the
569 clinical and management teams who will work within the new facilities, and governments
570 should ensure that project teams are supported by specialists with experience in this field
571 who have successfully delivered staff transfers under PPP arrangements and understand
572 the commercial objectives of potential service providers.

573

574

575 **E. Market assessment and engagement**

576 **1. Realistically match capacity**

577 In developing the PPP programme, the PPP Unit should formally consult with private sector
578 contractors, service providers, investors and advisors, to:

- 579 • Assess market capacity to deliver the programme, and develop a programme of
580 capacity building if necessary; and
- 581 • Ensure that there is capacity and capability to accurately assess and accept the risks
582 it is proposed will transfer to the private sector.

583 This engagement should take place during the development of the PPP Delivery Plan in
584 relation to its content; and in relation to specific projects, private sector feedback should be
585 obtained before procurement begins; once a preferred tenderer has been selected; and after
586 contracts have been signed.

587 The scope of the programme and each project should only be finalised once a formal
588 consultation has taken place, and the government should publish clear advice on the
589 measures that have been taken to change the content, structure and risk allocation of the
590 PPP programme in response to the consultation.

591 Consultees should include the following:

- 592 • Contractors;
- 593 • Facilities Management, clinical and equipment service providers;
- 594 • Designers;
- 595 • Sponsors / equity investors;
- 596 • Legal, financial, technical and insurance advisors;
- 597 • Senior lenders and, where appropriate, international financial institutions;
- 598 • Insurance and reinsurance companies;
- 599 • Stakeholders as described under D3; and
- 600 • Civil Society Organisations and patient/community groups.

601 Where gaps in capacity are identified, a formal capacity building programme should be
602 established with clear aims and specific objectives in relation to the scale and/or scope of
603 improvements needed to deliver the necessary capacity to implement the programme
604 successfully. The PPP programme should not be implemented until there is objective
605 evidence that the capacity is available to deliver it.

606 **2. Draw on proven experience**

607 In developing the PPP Delivery Plan, governments should carry out a systematic analysis of
608 best practice as it applies to their own needs, and ensure that the scope of the programme
609 and the transfer of risks is consistent with realistic market capacity. The advisors they use in
610 doing so should draw on demonstrable experience of successful delivery in proven markets.

611 **3. Develop a predictable pipeline of projects**

612 There should be a transparent process by which the scope of the PPP programme and
613 specific projects are developed. To allow both the public and private sector to establish
614 competent and experienced teams, governments should publish realistic 5-year 'look-ahead'
615 schedules identifying the projects they anticipate procuring over that term.

616

617 **4. Implement pilot projects and apply learning from them**

618 Before full-scale implementation of the PPP programme, a representative sample of pilot
619 projects should be procured to test the proposed approach, structure and risk allocation.
620 Before and after the procurement phase, feedback should be sought from the range of
621 consultees set out in recommendation 1 who participate in the pilot programme and used to
622 modify the approach, structure and risk allocation for the remainder of the programme.

623 **5. Clearly set out risk transfer proposals**

624 A formal schedule of risks and their allocation should be produced for the whole programme
625 and for each PPP project as part of the PPP Delivery Plan. The schedule should clearly set
626 out how risks will be allocated between parties, and should be developed in consultation with
627 the private sector consultees listed in E1. Where risks are to be insured, the schedule should
628 clearly allocate responsibility for arranging insurances, processing claims and paying
629 deductibles to help potential investors understand what costs and variables they should
630 include in their assessment from the outset.

631 The schedule should be developed and managed by the PPP unit with a remit to ensure that
632 it reflects market-wide commercial drivers, and agreement to depart from that risk allocation
633 for project-specific or bidder-specific reasons should only be agreed with the authorisation of
634 the PPP unit. It should be published each time it is updated.

635 The PPP Unit should understand what risks can be transferred to insurers, as parties will be
636 more willing to accept a risk allocated to them if they know it can be insured, and it will help
637 to more accurately price that risk.

638 F. Transparent procurement and management processes**639 1. Implement robust and transparent programme governance**

640 The PPP Delivery Plan should feature an institutional and regulatory framework which
641 details the roles of various stakeholders in the procurement process. The PPP Unit
642 responsible for implementation of the PPP programme should represent the government
643 counterparty which is the contracting authority under the PPP contracts, with clear
644 governance set out in the PPP Delivery Plan as to accountability between the two. The
645 Healthcare Strategy, Healthcare Infrastructure Development Programme and PPP Delivery
646 Plan should clearly set out which documents are to be available to the public, which should
647 be the default for all but commercially sensitive information. The PPP Unit should ensure
648 that the programme meets best practice in relation to the transparent procurement and
649 management of projects, using independent specialists to review and audit the programme's
650 compliance with national and international transparency and anti-corruption guidance.

651 The review of Project Business Cases should be carried out by a committee established by
652 the PPP Unit with representation from government departments including those responsible
653 for finance, planning and healthcare. The committee should also include representation
654 from neutral agencies such as transparency specialists and academia where necessary to
655 verify the transparency of the procurement and management of the projects, and should
656 feature technical, financial, legal and commercial specialists as well as members with
657 experience of the successful implementation of PPP transactions. The committee should
658 review Project Business Cases by reference to the standardised procurement
659 documentation, contract documentation and risk allocation schedules developed by the PPP
660 Unit and described under A6.

661 2. Standardise the procurement process and procedures

662 The procurement process for PPP projects should be clearly set out in the PPP Delivery
663 Plan, and its governance should guarantee a high degree of objectivity and transparency in
664 the invitation, receipt and evaluation of tenders. Qualitative and quantitative evaluation
665 criteria, and their relative weighting, should be established with stakeholders prior to tenders
666 being issued and should be made transparent to bidders when they are invited to tender.
667 The Project team should employ competent and experienced technical, financial and legal
668 advisors to assist in the tender evaluation. The protocols used for evaluating tenders should
669 include a transparent process for assessing the relative cost of tenders with different risk
670 allocation, and any selection criteria that would favour particular technology providers or
671 other proprietary products or services that could restrict open competition should be avoided.

672 The procurement process should allow for interaction between the project team and
673 tenderers, and if appropriate with the PPP Unit and stakeholders, to allow tenderers to tailor
674 their solution to offer the best possible value for money to the public sector. Any such
675 interaction must be managed in a way that gives all tenderers access to any potential
676 change in specifications, scope or requirements of the project while maintaining the
677 confidentiality of each tenderer's solutions. All tenderers should be offered fair and equal
678 access to meetings with the procuring authority and other stakeholders.

679 The extent of dialogue during the procurement process and subsequent re-submission of
680 refined proposals should be appropriate to the scope, type and complexity of the technical
681 and commercial solutions and service delivery requirements. Sufficient time should be
682 provided in the procurement process to allow detailed solutions to be submitted by

683 tenderers, which keeps to a minimum any changes in scope or specification between the
684 acceptance of a tender and the signature of contracts.

685 **3. Evaluate tenders transparently and publish formal evidence of value for money**

686 As part of its review and approval of the Project Business Case prior to signature of
687 contracts for a project as described in C2, the government should conduct a value for money
688 assessment. This assessment should be published to give the public evidence that
689 delivering the project as a public-private partnership represents the best possible value for
690 money.

691 Innovation and alternative solutions should be encouraged during the tender stage but their
692 scope and any consequential reallocation of risk against the preferred strategic solution or
693 Reference Solution should be clearly defined before a preferred partner is appointed. Any
694 constraints that could be placed on the competitiveness of funding should be identified
695 before any alternative solution is accepted, and any relaxation of specifications or scope
696 should be made clear during the procurement phase to all tenderers.

697 Certain objective criteria should be established before procurement begins which represent
698 a pass/fail test in the suitability of a potential partner to deliver projects. The published
699 evaluation criteria should make clear which aspects of tenders are pass/fail and which will be
700 judged against weighted qualitative and quantitative criteria.

701 An evaluation report should be produced for each tender, objectively scoring tenders against
702 the objective published criteria. The tender evaluation committee should have proven
703 experience and expertise in evaluate similarly complex tenders and feature technical,
704 commercial, financial and legal skills. Their conclusions should be subject to independent
705 review by a specialist audit office or independent agency.

706 **4. Promote Zero Tolerance to Corruption**

707 The government should develop standard definitions of corrupt practices in public
708 procurement and management, and ensure they are applied to the PPP programme. They
709 should be published as a matter of policy, and the PPP Delivery Plan should set out how
710 they will be incorporated in the PPP programme. Tenderers for each project should be
711 required to confirm their willingness to comply with anti-corruption policies and should be
712 eliminated from a tender if they are unable to do so, or if there is evidence that they have
713 exhibited corrupt practice. Acceptance of this principle should be a pass/fail tender
714 requirement. Compliance with this policy for each Project Business Case should be the
715 subject of an independent review and audit on behalf of the PPP Unit.

716 The following measures should be considered to minimise the risk of corruption:

- 717 • A requirement for tenderers to comply with a general policy on conflicts of interests
718 including obligations to disclose and report potential corrupt practices, as well as remedies
719 applicable to all participants and for dispute settlement;
- 720 • A mandatory code of conduct for any potential preferred provider;
- 721 • A set list of duties required of the preferred provider to be delivered as evidence of
722 compliance with a code of conduct, aligned with public sector best interest standards and
723 fiduciary duties;
- 724 • The use of statements of compliance and integrity to be signed by the bidders,
725 subcontractors, consultants and any third party involved in the bidding process;

- 726 • Ongoing compliance guarantees by the successful tenderer, and their main
727 contractors and sub-contractor;
- 728 • Disbarment from future PPP tenders by tenderers where evidence of corrupt
729 practices is evident;
- 730 • Sanctions in the event of attempts to influence public officials or collude with other
731 tenderers (either in relation to an individual tender, or multiple tenders);
- 732 • Preventative measures to hold public officials accountable and sanctions should
733 preventive measures fail;
- 734 • Minimum and maximum preparation time for tenders at each stage;
- 735 • Internal control and audit systems; and
- 736 • Immunity for whistleblowers.

737 **5. Record and publish procurement and management information**

738

739 Project Business Cases should have clear and objective measures of value for money, and
740 outputs compared to the base case upon award of a contract. The PPP Delivery Plan
741 should include measures to encourage the recording and publication of procurement and
742 management information for each project, in the interest of demonstrating long term value
743 for money. The following measures should be considered:

- 744 • Publication of the Project Business Case, and specifically the Value for Money
745 assessment, prior to signature of contracts;
- 746 • The publication of procurement evaluation reports (redacting commercial information
747 with the consent of tenderers being sought prior to shortlisting);
- 748 • Publication of a procurement audit report following appointment of a preferred
749 provider;
- 750 • Publication of feasibility studies and details of the proposed strategic solution or
751 Reference Solution;
- 752 • Publication of details of any government financial support to projects and the PPP
753 programme;
- 754 • Routine public engagement sessions during the operational phase by the PPP Unit,
755 the project team and the private provider;
- 756 • Whenever major changes are made to a project or significant maintenance work is
757 carried out, a review to confirm that this investment is consistent with the Healthcare
758 Strategy and represents the best possible value for money for the public sector; and
- 759 • The publication of routine project management reports demonstrating that projects
760 continue to represent value for money, including headline details of risk allocation and
761 private sector returns.

762

763 **Annex 1**

764

765 Projects and programmes in the following countries were considered by the team developing
766 the Standard as sources of lessons and experience based on published information.

- Australia
- Austria
- Bahrain
- Bangladesh
- Belgium
- Benin
- Brazil
- Canada
- Chile
- China
- Croatia
- Czech Republic
- Denmark
- Egypt
- Finland
- France
- Germany
- Ghana
- Greece
- Grenada
- Hungary
- India
- Ireland
- Italy
- Japan
- Kazakhstan
- Kenya
- Kuwait
- Lesotho
- Malaysia
- Mauritius
- Mexico
- Moldova
- Montenegro
- Netherlands
- Nigeria
- Norway
- Pakistan
- Peru
- Philippines
- Poland
- Portugal
- Puerto Rico
- Republic of Korea
- Romania
- Russian Federation
- Slovakia
- South Africa
- South Korea
- Spain
- Sweden
- Turkey
- Turks and Caicos
- United Arab Emirates
- United Kingdom
- United States of America
- Uzbekistan

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