

Cambodia

1. Overview

Cambodia has 15 million population with US\$1,000 GDP per capita. After it became an ASEAN member in 1999, Cambodia has moved towards a free market economy and has continued to grow solidly. Although the economy was influenced by the global financial crisis in 2009, GDP growth has recovered after 2010, being above 7 percent between 2011 and 2013.

PPP in Cambodia is at a relatively undeveloped stage. Most overseas investment in infrastructure projects to date has occurred in the power sector, in particular hydropower projects, with China historically being the most active investor.

Although the power sector remains, and is likely to continue to be, the leading infrastructure sector in Cambodia, telecommunications and information technology infrastructure, tourism, and transportation facilities have recently emerged as new infrastructure sectors that are expected to gain further momentum in the near future.

Currently, PPP can be implemented in the following sectors where infrastructure facilities provide direct or indirect services to the public: power generation, power transmission, and power distribution; transportation facilities and systems such as roads, bridges, airports, ports, railways, and man-made canals; water supply and water treatment; infrastructure for telecommunications and information technology; infrastructure facilities for tourism projects such as tourism sites and museums; infrastructure for the gas and oil sectors such as oil and gas pipelines; sewerage, drainage and dredging; solid waste management and treatment; public infrastructure related to health, education, and sport sectors; infrastructure related to special economic zones and social housing; irrigation and agriculture related infrastructure; and other sectors for which a specific law allows for the granting of concessions.

Cambodia as yet has little in the way of formal policies or guidelines on the use or implementation of PPP for infrastructure procurement. There have been some recent initiatives by institutions such as ADB and ERIA¹⁴ to foster capacity building and institutional

¹⁴ ERIA website news (2014), 'Public Private Partnership (PPP) Technical Workshop in Cambodia: PPP Implementation Requires Human Resource Development', 21 August. <http://www.eria.org/news/FY2014/09/public->

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development by way of technical assistance programmes and seminars. These initiatives are, however, still at an early stage.

2 Institutional and Regulatory Frameworks

There is no specific PPP law in Cambodia. Although Cambodia has started to develop some of the legal frameworks necessary to stimulate infrastructure investment, such as the Law on Concessions and the Law on Investment, these are laws designed to serve investment generally rather than PPP specifically.

- The Law on Concessions, enacted in October 2007, provides the main legal framework related to infrastructure investment in Cambodia. Its purpose is to promote the development of privately financed infrastructure projects in the country. The concession contract in the framework is defined to include build–operate–transfer (BOT), build–transfer–operate (BTO), modernize–operate–transfer (MOT), lease or management contract, or other forms. The above mentioned sectors are regarded as eligible sectors for the granting of concessions. The law also prescribes the selection procedure and organization of concessionaire, or concession period termination.

Significant legal restrictions on PPP projects are the term of the concession and the governing law of the concession contract. The term of the concession is limited to 30 years from the signing of the concession contract. However, the government is entitled to grant a longer concession period if the nature of the infrastructure project requires a longer term. The concession agreement must be governed by Cambodian law.

- The Law on Investment 1994 ensures that the Cambodian government will provide incentives to encourage investments in sectors such as high technology industries, job creation, export-oriented industry, tourism industry, agro-industry and transformation industry, physical infrastructure and energy, provincial and rural development, environmental protection, and investments in the special economic zones.

[private-partnership-ppp-technical-workshop-in-cambodia-ppp-implementation-requires-human-reso.html](#) (accessed 26 June 2015).

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A PPP project in Cambodia currently would need to be carried out under this legislation, rather than under more specific PPP type laws or regulations. Recognizing this, the government has been drafting a specific legal framework and procedural guidelines as discussed in the next section.

As for its institutional settings, there is currently no specific central PPP agency in Cambodia. The following are some of the agencies that are responsible for infrastructure projects.

Ministry of Economy and Finance (MEF)

The MEF is responsible for assessing and approving the liabilities of the government under proposed projects. It is now in the process of institutionalizing the operation of centralized agencies in the MEF, the PPP Unit in the Department of Investment of the General Department of Budget, and the Risk Management Unit (in the Department of Cooperation and Debt Management). The main role of the PPP unit is to coordinate feasibility studies, provide human assistance to line ministries, and manage the procurement procedure, negotiation, and evaluation of projects. The main function of the Risk Management Unit, meanwhile, will be to assess the contingent liability which results from government guarantees as well as risk assessment in project investment for line ministries' consideration.

Council for the Development of Cambodia (CDC)

The CDC is the one-stop service organization, which is the highest decision-making body of the government on private and public investments. The CDC is chaired by the prime minister and is composed of senior ministers from related government ministries. The Cambodian Investment Board (CIB) under the CDC takes coordination and implementation roles in evaluating and approving applications for private investments except for special economic zones (SEZ).

Ministry of Commerce

The Ministry of Commerce is responsible for regulating business enterprise law, commercial registration law and regulations, and secured transaction law.

3. Recent Developments in PPP

There have been more than 30 PPP projects implemented since 1990, among which projects in the power sector account for more than 50 percent in terms of numbers and values. Hydropower generation, coal-power generation, and transmissions are included in those projects. Other than the power sector, PPP projects have also been formulated in the transportation sector (airports and roads, among others). The BOT scheme (not under the Law on Concessions) has often been adopted as a method of implementing PPP.

As mentioned, the Law on Concessions only provides a general legal framework and currently is under-utilized. It is understood that there are several initiatives ongoing to upgrade its enabling regulatory environment for PPP with the support of multilateral agencies. This would include an amendment of the Law on Concessions, enactment of comprehensive regulations (that is, implementing sub decrees), and the establishment of PPP procedural guidelines.

Currently, there are several projects which are expected to be procured under a PPP scheme. The establishment of a Project Development Fund (PDF), which would be a component of future initiatives, will increase the quality and quantity of pipeline projects, and eventually demonstrate the effectiveness of these efforts.