حكومة دبي
GOVERNMENT OF DUBAI

دائرة المالية
Department of Finance

Public Private Partnership (PPP) Policy

First Edition 2019

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Glossary of Contents

Assets	Assets of the project
Bid	Bid for the specific project
Bidder	Advisor or Consortium of advisors Bidding for a specific project
Capex	Capital expenditures related to the project
Consortium	A number of advisors committed to Bidding together for a project
Deliverables	Outputs of a project
Department of Finance (DoF)	The Dubai Department of Finance
EOI	Expression of Interest
Feasibility Study	Feasibility Study addressing the project
Final Approval	The Final Approval provided by the public entity for a specified project
Government Entity (GE)	All entities that are subject to the general budget of the Government, or as otherwise approved by the Supreme Fiscal Committee
Partnership Committee	Committee formed by the Government Entity under the Article 11 of the PPP Law
Partnership Contract / Agreement	The contract signed between a public entity and a private sector entity
Performance Monitoring	Monitoring of private sector performance in delivering contracted partnership projects
Pipeline of Priority Projects	Planned important projects by Dubai Government Entities
PPP	Public Private Partnership
PPP Law	The Dubai Public Private Partnership Law No. (22) of 2015 Regulating PPP in the Emirate of Dubai
PPP Project	Public Private Partnership project
Priority Projects	Projects identified as high priority by the Department of Finance - Dubai
Private Party	A private business entity conducting business in accordance with the laws of the UAE
Project Concept Report	A report which serves as an overview and brief description of the project
RFP	Request for Proposal
RFQ	Request for Qualifications

Risk Allocation	The Risk Allocation between the private and public parties in a PPP Project
Screening	Validation of a project
Stakeholders	Parties involved in a project and/or have impact on a project
Supreme Fiscal Committee (SFC)	Dubai Government Supreme Fiscal Committee
Technical Advisor	The advisor put forward on a project to handle technical aspects of a procurement
Threshold	Financial limit
Timeline	Specified Timeline for activities and milestones
Transaction Advisor	Consortium of Financial, Technical and legal advisors, assisting the Government Entity to evaluate and procure the project

1 WHAT ARE PPPS?

The World Bank defines PPPs as a “long-term contract between a private entity and a Government Entity, for providing a public asset or service, in which the Private Party bears significant risk and management responsibility, and its remuneration is linked to performance.”

PPPs are classified on the basis of three broad parameters – the type of asset involved; what functions the Private Party is responsible for; and, how the Private Party is paid:

a) **Asset** – many PPPs involve the financing, building, and managing of new public Assets, often called “greenfield” projects; some PPPs involve the transferring of responsibility for the upgrading and managing of existing Assets to a private company, and are known as “brownfield” projects. PPPs tend to be large, capital intensive projects (e.g. roads, bridges, hospitals, metro systems, power plants, waste to energy, water and sewer systems etc.)

b) **Function** – this can include any or all of the following: design – developing the project from initial concept and output requirements; construction or refurbishment; raising finance; operation, maintenance and removal, demolishment or decommissioning of an asset. In most cases, the private sector is responsible for the long term operation of an asset and provision of a service which can be for a government off-taker, or directly to end users.

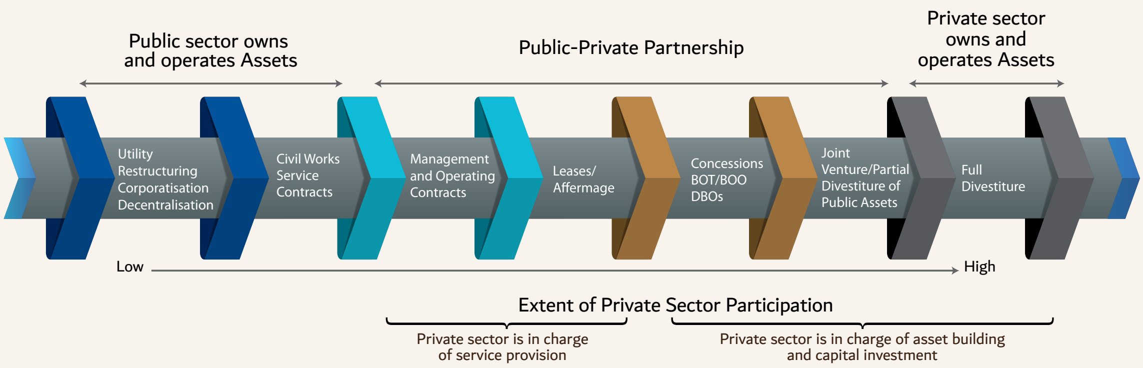
c) **Payment mechanism** – based on the services provided by the private sector party, the payment to the private sector can be user pays, or government pays or a combination of these.

   a. “user pays” PPPs – wherein the Private Party provides a service directly to end users and generates revenue by charging end users directly for that service. This revenue may be supplemented by performance-based or output-based payments from the government.

   b. “government pays” PPPs – wherein the government is the sole source of revenue for the private sector party, and payments can either depend on the asset or service being available at a contractually-defined quality and period (“availability” payments) or can be output-based for services delivered to users. The Private Party’s remuneration is linked to performance.

   c. “hybrid” PPPs – wherein Private Party revenue is generated by charging end users directly for providing a service, supplemented by performance-based or output-based payments from the government

These characteristics can be combined in various ways to create a wide range of PPP contracts; the World Bank classifies PPPs along a spectrum based on the nature of asset ownership and private sector participation as follows:



Design	✗	✗	Varies based on structure	✓	✓
Build	✗	✗	✓	✓	✓
Finance	✗	✗	✓	✓	✓
Maintain	✓	✓	✓	✓	✓
Operate	✓	✓	✓	✓	✓
Own	✗	✗	Varies based on structure	Varies based on structure	✓

Source: "What are Public Private Partnerships?" World Bank

Figure 1: World Bank PPP Spectrum

2 The need for a PPP framework

Since 2009, Dubai's economy has recovered steadily, driven by robust GDP growth and improved investor confidence, as evidenced by prevailing market indicators such as Credit Default Spreads. Buoyed by foreign investment seeking a regional safe haven, along with the formulation of concrete steps to ensure revenue diversification through new measures of taxation and tapping the capital market, the Dubai government has continued to boost spending on infrastructure through its agencies and departments.

Dubai's ambitious strategic vision is underpinned by the need to continue making large scale investments in both social and economic infrastructure. This results in ever increasing budgetary demands both in terms of funding and financing. It is recognised both within the Dubai government and in the wider capital markets that Dubai will have to continue to evolve, innovate, and reform the manner in which these large financial commitments are funded through alternative financing structures.

Alternative financing can also serve as a catalyst and a conduit for the attainment of additional strategic imperatives such as economic diversification, foreign direct investment, encouragement of local entrepreneurship and industry, and the pursuit of sustainable economic growth that is both guarded against volatility and is not resource-intensive. In order to adhere to the targets set out by the Dubai Plan 2021 and the Dubai Industrial Strategy 2030, Dubai must deliver the infrastructure required to meet the needs of a growing population, and develop the Emirate as one of the world's leading hubs for logistics and trade. To achieve this, very large amounts of private and public financing will have to be secured.

All of the above necessitates the leveraging of local and international private sector expertise, efficiency, and innovation. To this end, the Dubai government issued Law No. 22 in 2015 (the "PPP Law") to provide a legal framework for government agencies to enter into Partnership Contracts with the private sector.

The framework is now being developed further, with the issuance of an Emirate-wide PPP policy (i.e. this document), the establishment of a PPP unit within the Department of Finance, the development of operating guidelines based on best practices across the procurement lifecycle, and the formulation of a uniform budgeting approach to managing PPP liabilities and managing aggregate fiscal exposure.

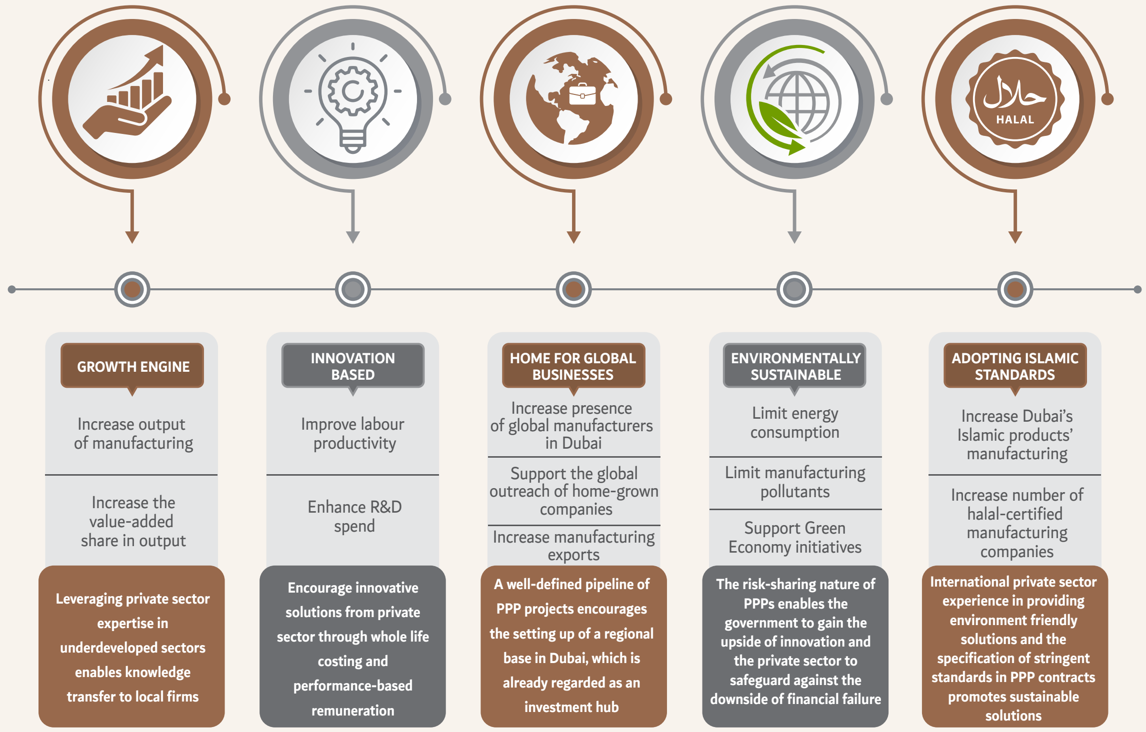


Figure 2: Dubai's strategic objectives and how PPPs assist in achieving them

3 Objectives of the PPP Framework

i. Promote partnership between the public and private sector, by bringing a shift in managing certain infrastructure and public services Projects from direct implementation, operation, and management to other forms of government involvement such as policy approval and quality control of public services in accordance with governance requirements;

ii. Cultivate and encourage private sector interest in participating in projects to increase investment in various relevant fields, thus promoting economic and social development in the Emirate by instilling of confidence in the efficiency, transparency, and integrity of the procurement process;

iii. Utilize the financial, administrative, regulatory, technical, and technological potential and experience of the Private Sector, thus enabling community members to avail of high quality services at the lowest cost;

iv. Improve the competitive edge of Emirate of Dubai's PPP Projects in local, regional, and international markets;

v. Ensure simplicity and consistency of PPP resolutions and processes across various government department and agencies.

vi. Improve the accountability of government Stakeholders for the provision of infrastructure projects and services;

vii. Enable the Government to implement its PPP Projects in an efficient and effective manner by institutionalising the procurement of projects in a manner so as to ensure the streamlining of approval processes and provide fair and consistent procedures;

viii. Provide government agencies access to best practices across various sectors to be able to procure projects efficiently and develop PPP Project procurement and management capabilities;

ix. Establish a consistent basis for government support through tailored guarantees and security over Assets to make PPP contracts suitable for long-term private capital investment in the economy;

x. Enable the Supreme Fiscal Committee, the Department of Finance, and other approving agencies to receive standardised proposals that can be evaluated on a like-for-like basis and engender value for money; and,

xi. Ensure that government agencies receive senior level approvals at an early stage to assist in project execution; this commitment increases confidence of the private sector in infrastructure procurement in Dubai.

4 Components of the PPP framework

The PPP framework components define how PPPs will be identified, assessed, prioritised, selected, approved, budgeted, procured and monitored.

Components of the PPP framework

1. PPP Policy
2. Institutional responsibilities and processes
3. Public financial management approach
4. Legal framework

Figure 3: Components of the PPP framework

The PPP framework will consist of the following:

- **PPP Policy:**
  - This PPP policy that outlines the Dubai government's commitment to PPPs and serves as a guidance document that articulates the rationale behind the use of PPPs, and the scope and implementing principles of the programme.

- **Institutional responsibilities and processes:**
  - The assignment of key roles and responsibilities across the lifecycle of PPP Project to government entities and Stakeholders, including a PPP unit that will be set up within the Department of Finance.
  - Guidelines adapting best practices for the identification, preparation and analysis, transaction management, and contract management stages of a PPP Project, along with templates of standard documents.

- **Public financial management approach:**
  - A fiscal framework that accounts for long-term and contingent liabilities, comprises a systemic model for PPP planning and implementation, institutionalises the budgeting functionality within the Department of Finance, and provides a sustainable way to limit aggregate fiscal exposure and ensure that unsustainable or non-priority projects are postponed or rejected.

- **Legal framework:**
  - An overarching legal framework, including a PPP Law and accompanying resolutions that detail and provide further context to certain provisions in the law.

5 PPP Programme Scope

5.1. Scope of application

The PPP framework only applies to government entities that are subject to the general budget, or are recipients of any form of financial support, of the Government of Dubai, and all other entities as approved by the Supreme Fiscal Committee (SFC), as described in the PPP Law No. 22 of 2015.

The PPP framework is applicable to all projects under the PPP spectrum, namely: management and operating contracts; leases and affermages; concessions, BOT projects, and DBOs; and, joint ventures and divestitures.

5.2. Financial Threshold

Projects likely to provide value for money savings when procured as PPPs are those with a total capital expenditure of at least AED 200 million and/or average governmental commitment of more than AED 10 million per annum. Governmental commitment, as defined herein, will comprise an aggregate of operating expenditure, revenue foregone, and other miscellaneous financial commitments. Moreover, bundling of similar projects or different phases of the same project must be considered when calculating project capital and/or operating expenditure.

As a policy, all projects that meet this Threshold must be tested for PPP suitability, and, if found suitable, procured under the PPP framework. Projects below this Threshold can also be procured as PPPs should they exhibit the potential to realise sufficient value for money savings. Additionally, the Department of Finance may, at its discretion, direct governmental entities to screen projects below this Threshold for PPP suitability.

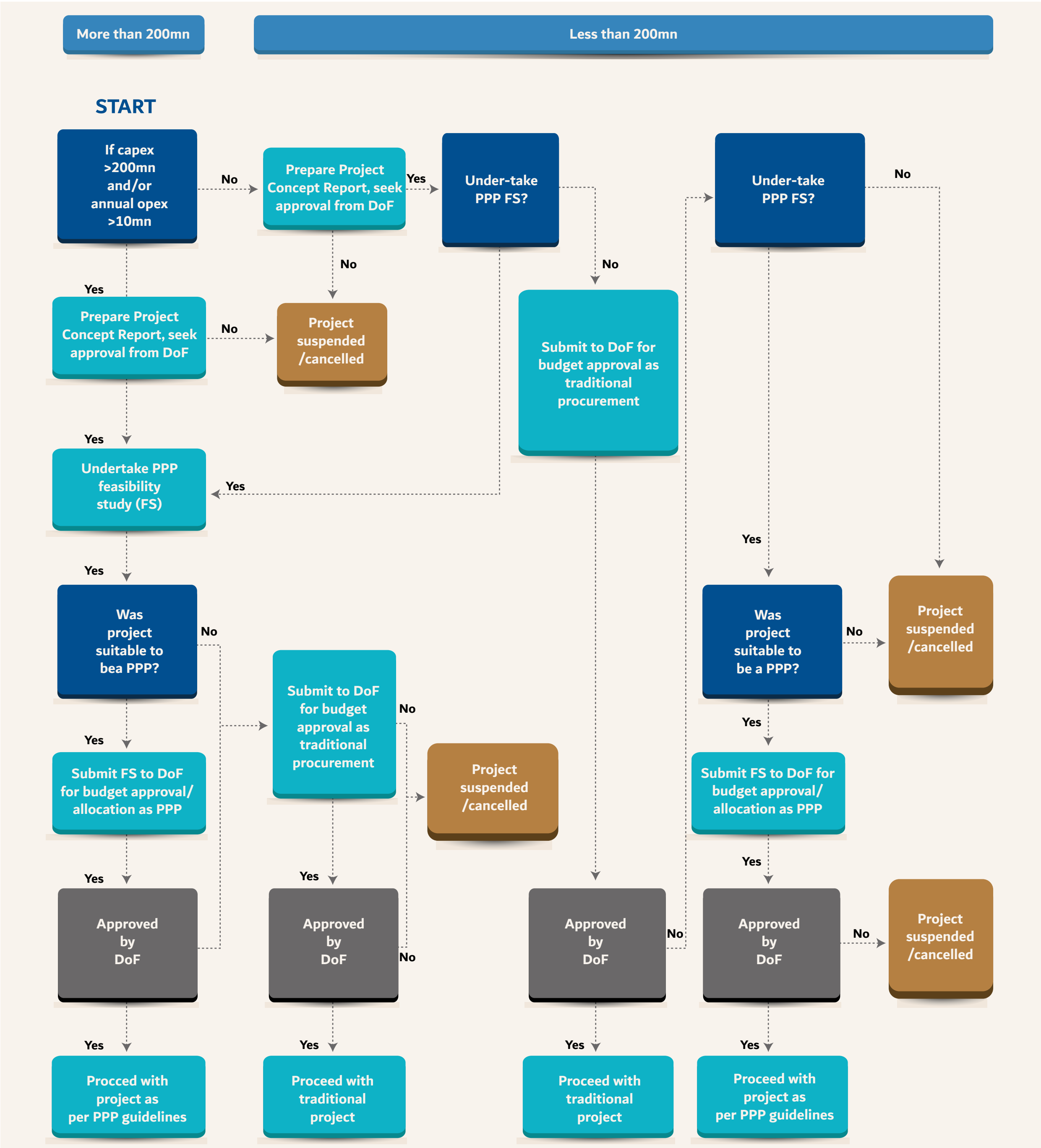


Figure 4: PPP Projects Screening Process

6 PPP Guidance Notes

6.1. PPP Project Lifecycle

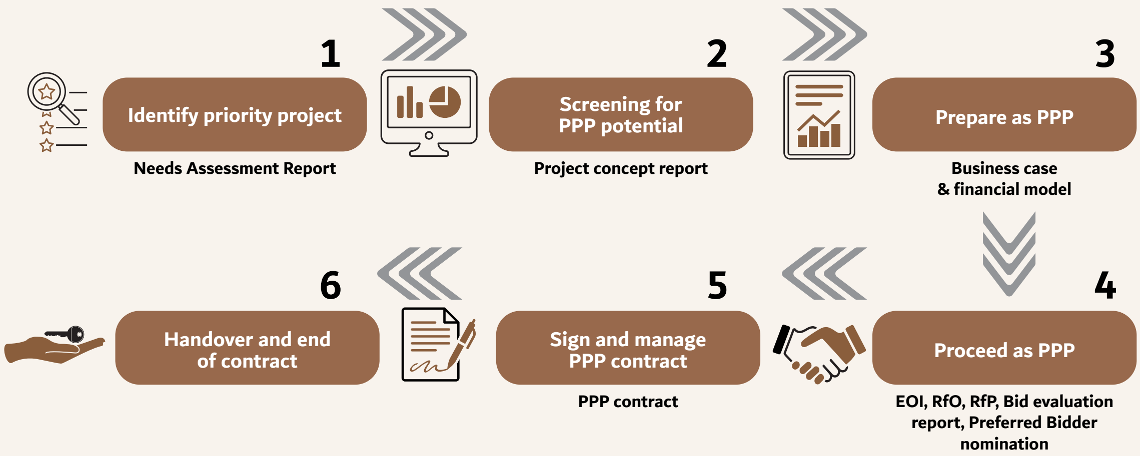


Figure 5: Stages of the PPP Project Lifecycle and key Deliverables to be produced at each stage

6.2. Implementing Principles

Identify priority projects

- Ensure a productive working relationship between governmental entities (hereinafter referred to as Contracting Authorities), the Department of Finance, and The Executive Council, to develop a list of priority projects that can be procured;
- Ensure that, in accordance with the PPP Guidelines, appropriate priority projects are selected for delivery as PPPs. Priority projects that can be privately financed and operated should be considered as candidates for PPPs, while those which are not conducive to long term private financing and operations should continue to be traditionally procured and funded; and,
- Facilitate an investment environment conducive to partnership projects by maintaining and publishing a five-year rolling pipeline of PPP Projects that are aligned with the Dubai's long term strategic plan.

Screening for PPP Potential

- Ensure that all projects that are suitable for PPPs are implemented as PPPs; the Screening process should be based on a comprehensive set of qualitative and quantitative criteria:
  - **Threshold to consider projects to be implemented as PPPs:** Projects which are expected to deliver value for money savings when implemented as PPPs should be considered for suitability to be procured as a PPP. An initial criterion to test for PPP suitability is the total capital investment/operating costs that are required by a project during its tenure; as such, large sized projects usually have a higher potential to deliver value for money. **As a policy, all projects requiring more than AED 200 million capital expenditure and/or average operating expenditure of AED 10 million per year should be tested to see if they are suitable to be procured as PPPs, before a budget is allocated.**
  - **Sufficient scale and long-term nature:** The project represents a major capital investment with long-term requirements. The value could include bundling together a small number of similar projects. Projects with a low capital expenditure requirement can have a significant service/operating expense component over the Project Lifecycle and, therefore, can exhibit sufficient drivers of value for money savings. Hence, in determining whether the scale of a project is sufficient, the size of costs to government of procuring the project as a PPP should be considered.
  - **Complex risk profile and opportunity for risk transfer:** Improved risk management and more rigorous risk evaluation enables a transfer to the private sector of those risks it is best able to manage, including those associated with providing the specified services, asset ownership, and whole-of-life asset management.
  - **Whole-of-life costing:** Full integration, under the responsibility of one party, of up-front design and construction costs with ongoing service delivery, operational, maintenance and refurbishment costs, potentially delivers improved efficiency through whole-of-life costing as design and construction become fully integrated up-front with operations and asset management.
  - **Measurable outputs:** The nature of the services enables output specifications and a performance-based contract.
  - **Innovation:** As the PPP approach focuses on output specifications, this provides a wider opportunity to use competition as an incentive for private parties to develop innovative solutions in meeting these service specifications.
  - **Asset utilization:** Reducing costs to government through potential third-party utilisation and through more efficient design to meet performance (e.g. service delivery) specifications.
  - **Better integration of design, construction and operational requirements.** Ongoing operational, maintenance, and refurbishment requirements become a single Private Party's responsibility for the length of the contract period.
  - **Market Appetite:** A competitive market exists and the use of a competitive process helps encourage the Private Party to develop innovative means of service delivery, while meeting government cost and service objectives.

- Make certain that PPPs are not utilised solely as a means to develop projects which have not been provided budgetary allocations, but, instead, to develop, through a robust needs assessment, projects that require government funds, satisfy societal and strategic needs, and are within the existing remit of the procuring entity.

Prepare as PPPs

- Ensure that sufficient preparatory work is performed during the project initiation stage, which will prepare the project to be presented to the market, draw sufficient interest from the private sector, and proceed efficiently during the procurement stage. The preparatory work will include comprehensive assessment of the following:

  i. need for the project;

  ii. delivery options assessment;

  iii. estimate the value for money for the government if the project is undertaken as a PPP;

  iv. approvals and regulatory requirements;

  v. financial and no-financial government support; and,

  vi. market readiness

- Ensure that Bids from the private sector are solicited only where there is demonstrated private appetite and scope to leverage private participation to deliver value for money savings;
- Gaining key stakeholder approval of private sector involvement in a project and of support in the form of financial and non-financial governmental support prior to the formal involvement of the private sector;
- Develop a consistent and clear set of evaluation criteria that takes into consideration technical and whole-of-life cost of the financial Bids from the private sector.

To prepare the project for PPPs, government entities should hire well-qualified external financial, legal and Technical Advisors. It is recommended that these are international organisations that have sufficient precedent experience in PPP transactions. These advisors should also be regulated by independent bodies such as the Financial Services Authority, DFSA, The Institute of Chartered Accountants of England & Wales, and The SRA (UK). In any event, the firm and the team both should demonstrate experience of advising on PPP Projects of similar nature.

Proceed as PPPs

- Ensure an efficient procurement process, which adheres to the projected Timelines;
- Ensure that the financial and technical objectives of the project, as set out and approved in the initiation and preparation stages of the project, are met entirely during the procurement stage;
- Make certain that the procurement process is carried out in a shared manner, and functions as a true partnership between the public and private sectors, with the appropriate Risk Allocation as set out in the initiation stage between the involved government and private parties;
- Have an adequate and transparent evaluation process in order to ensure that appropriately qualified Bidders are chosen as Preferred Bidder(s) and that unsuccessful participants retain trust in the integrity of the procedure;
- Ensure that high-quality Bidders remain interested in the project and are not deterred by unexpected regulatory changes or approval requirements; and,
- Ensure that the lowest price is not the only decision-making criteria, and that appropriate consideration is given to technical competence, innovation, Emiratisation, and knowledge transfer aspects of the proposed private partner's solution.

Sign and manage PPP contract

- Ensure effective Performance Monitoring and contract enforcement in order to ensure that contracted services are delivered to the specified standards;
- Require comprehensive reporting on PPP Projects in order to ensure that future projects will benefit and learn from experience gained;
- Establishment of dedicated project and contract management teams with appropriate specialist expertise and experience; and,
- Establish and set a precedent for soundness of contract execution and enforcement in order to reassure and attract interested potential Bidders.

Handover and end of contract

- Provide for adequate step-in rights and detail takeover provisions, including asset condition requirements at handover, to ensure that the transfer process is smooth; and,
- Ensure the collation and dissemination of lessons learned from the transaction that can be applied to future PPP Projects.

7 Institutional responsibilities and processes

7.1. Objectives of PPP governance mechanism

- To help Dubai Agencies and Departments fulfill their obligations in relation to delivering the agreed Pipeline of Priority Projects;
- To facilitate PPPs as an alternative financing option for government agencies;
- Create a dynamic and sustainable centre of excellence for PPPs;
- Drive PPP deal flow by identifying project opportunities that yield value for all Stakeholders;
- To increase investor confidence among domestic and international operators, developers, and financiers;
- Provide technical assistance to procuring entities during all stages of a PPP Project;
- To ensure that key Stakeholders for a PPP Project are identified early in the process and various government bodies are aligned to enable on-time and efficient project execution;
- To establish an assurance mechanism to enable delivery of projects using best practices suitable for Dubai, thereby optimising the value for money for the project; and,
- To have a clear, quick, and easy to implement project delivery and approval process.

7.2. Key Stakeholders

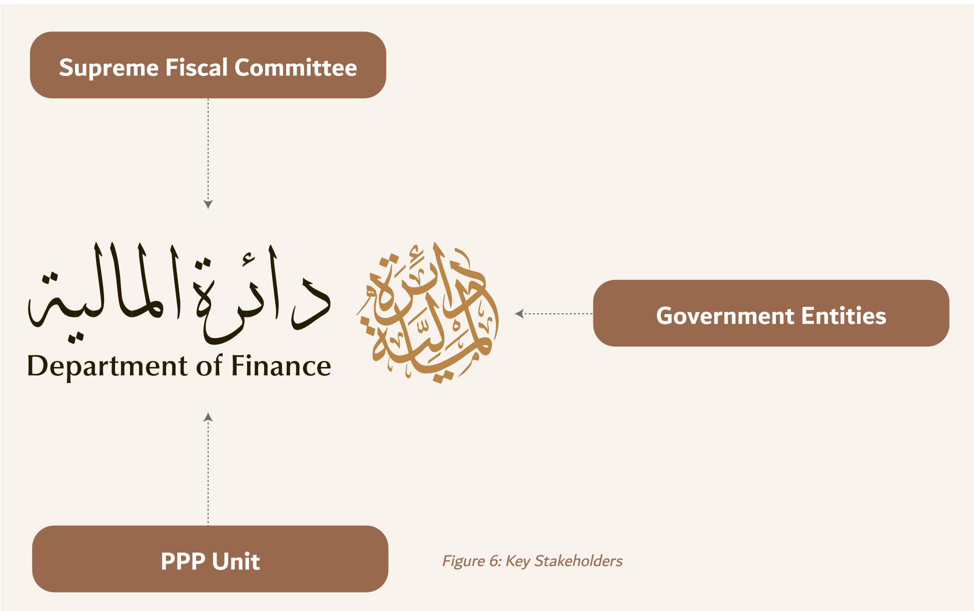


Figure 6: Key Stakeholders

Government entities

Description: Government entities, also referred to as Contracting Authorities, are entities that are subject to the general budget, or are recipients of any form of financial support, of the Government of Dubai, and all other entities as approved by the Supreme Fiscal Committee (SFC) as described in the PPP Law No. 22 of 2015.

Government entities will be the drivers of PPP Projects, and will have the control and oversight over the development, operations, and the performance of PPP Projects.

Role:

- Contracting directly with the private sector;
- Entirely responsible for PPP Project Screening, preparing projects as PPPs, carrying out the procurement process, and signing and managing the PPP contract;
- Seeking the relevant approvals from the Department of Finance, the Supreme Fiscal Committee, and any other government agency as required at each stage of the PPP Project, as detailed in the PPP Guidelines; and,
- Closely monitoring the post-award performance of the project and report frequently on adherence to Timelines, budgets and other objectives to the Department of Finance. The frequency of reporting will be quarterly by default, but can be changed as mutually agreed between DoF and the government entities.

Resourcing:

- Establishing a Partnership Committee that will be responsible for developing the PPP Project pipeline for the Contracting Authority and participating in the PPP Project Lifecycle;
- Appointing external financial, legal and technical Transaction Advisors, who will assist with the development of the business case and advise the Contracting Authority during the PPP Project procurement process; and,
- Setting up a well-qualified internal Project Team, ideally within the investment team for each PPP Project, which should have the relevant experience in the development and execution of PPP Projects in the relevant sector.

Department of Finance

Role:

Financial regulator, an assurer, and the parent agency of the PPP Unit, that is responsible for the following:

- **Policy Driver:**
  - Assessing whether government expenditure on PPPs is fiscally responsible and within short, medium, and long-term budget goals of Dubai;
  - Drafting PPP progress reports, monitoring adherence to performance KPIs, and developing and publishing a pipeline of PPP Projects;
  - Formulating the objectives and the relevant PPP policies for governmental entities; and,
  - Developing and distributing guidelines and toolkits to the Contracting Authorities to enable standardised processes. The guidelines and toolkits will outline the processes to be followed, the documents to be developed, and the approvals to be sought during the lifecycle of a typical PPP Project, from Screening for PPPs to handover of the project.
- **Assistance:** Supporting the relevant Contracting Authority's Partnership Committee and Project Team during the project preparation, procurement process, reviewing contractual documents, assisting with evaluation, and participating in negotiations;
- **Approval:** Providing Final Approval of the business case for projects with total governmental commitment between AED 200 million and AED 500 million, as defined in the PPP Law No. 22 2015, which will detail the PPP structure, total budget allocation, contingent liabilities, and the PPP procurement plan;
- **Assurance:**
  - Supporting Contracting Authorities on the commercial and legal aspects of PPP Projects, such as preparing and reviewing draft contractual documents, ensuring alignment with published templates, and reviewing contractual mark-ups; and,
  - DoF will review the business case for projects with total government commitment exceeding AED 500 million, as defined in the PPP Law No. 22 2015, which will detail the PPP structure, total budget allocation, contingent liabilities, and the PPP procurement plan. DoF will recommend the business case's for approval to the Supreme Fiscal Committee based on economic and strategic criteria.
- Recommending for Final Approval the identity of the Preferred Bidder to the Supreme Fiscal Committee; and,
- Recommending for approval the signing of the final PPP agreement to the Supreme Fiscal Committee.

➤ Supreme Fiscal Committee

Role:

With overall responsibility for overseeing fiscal policy, the Supreme Fiscal Committee will function as the final approver at key stages of the project:

- Responsible for monitoring the overall effectiveness, exposure, and compliance with the PPP framework and Law;
- Providing Final Approval of the business case for projects with total government commitment exceeding AED 500 million as defined in the PPP Law No. 22 2015, which will detail the PPP structure, total budget allocation, contingent liabilities, and the PPP procurement plan. The business cases shall be referred to the Committee after review by the Department of Finance;
- Providing approval of the identity of the Preferred Bidder prior to commencement of contractual negotiations, following the receipt of a recommendation from the Department of Finance; and,
- Providing approval of all PPP contracts and of the final Bid from the Preferred Bidder prior to award, following the receipt of a recommendation from the Department of Finance.