

# Public-private partnerships

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THERE is unanimity of view that Pakistan faces enormous deficiencies in its infrastructure, particularly the energy sector, that is slowing down the rate of growth and creating stress and disenchantment among business and society. It is also true that the federal Public Sector Development Programme does not have enough fiscal space to accommodate all priority projects.

At the same time, there is a buoyant private sector that is sitting on ample cash surpluses and looking for profitable opportunities. So there is a demand for infrastructure projects and there is supply of resources available from investors willing and able to finance these key projects. The market mechanism does not seem to be working because the private sector is uncertain about the likely return on their investments.

Pakistan has experimented with many variants of public-private partnerships ranging from independent power producers (IPPs) to the Hyderabad Mirpurkhas Expressway. Some of these IPPs have proved successful and others have failed. It is time to learn from the lessons and also from the success of other countries in the region. What are these lessons that can help reinvigorate public-private partnership in Pakistan? First and foremost is the policy commitment and continuity of policy despite changes in political regimes. In the 1990s, we had a severe setback when the Ehtesab Bureau opened inquiries into the award of IPPs and started creating difficulties for Hub Power Co. forcing foreign investors to eventually exit. After the change in government, the Lahore-Islamabad Motorway and its foreign sponsors faced difficulties and delays. Korean investors who were prepared to bring about new investment in other projects and sectors did not follow through.

The reputational risk associated with these actions took a long time to be mitigated despite a fairly liberal regime for foreign direct investment. The risk of change in public policy remains heightened. The two largest mining companies of the world which came together to develop the Reko Diq copper and gold mines found themselves subjected to litigation after the change in government and are now engaged in international arbitration. The contract for Gwadar port was also cancelled by the then incoming government. These are only a few examples that show as to how potentially useful

projects under the PPP framework that could have made a difference to the economy were thrown off the trajectory.

The second lesson is that there has been lack of transparency in the award of some of these contracts raising suspicions and question marks, media campaigns, suo motu actions and finally reversal when the opposition political parties assumed office. Whenever open, competitive bidding and auctions specifying all the rights and obligations in a clear, enforceable manner, such as the auction of the 3G/4G spectrum and the 2G auctions under the previous government, took place we had successful outcomes.

Whenever there was any semblance of cronyism or ruling family connections with the process the outcomes were challenged in courts of law or questions were raised by the media. Short cuts and disguised favours are inimical to the sustainability of transactions

Third, the bundling of risks faced by private investors has not been matched by an integrated, coordinated response by public authorities. The fragmentation among policymakers, regulators, legal authorities, finance providers, the provincial and local governments, and utility companies is time-consuming, cost-escalating and frustrating for those putting their own money on the hook. While prime ministers, finance ministers and chief ministers exhort investors to come forward, the endless movement of files back and forth for multiple approvals, clearances and NOCs create a big gap between words and deeds.

What is the way forward? Sectoral strategy statements outlining the goals, supporting policy framework indicating projects that would be earmarked for public-private partnerships along with the physical targets to be achieved and time lines should be developed, discussed with all the stakeholders, approved by parliament and announced publicly. Each sector ministry should then fully develop upfront legal, regulatory, taxation, pricing, purchase and sale agreements under which their partnerships would operate.

Concession agreements on the right of way, and land acquisition, financial structuring and closure guidelines and the responsibilities and obligations of each party should be placed in the domain of general public information. Bidding documents for open and transparent competition should spell these out and also the process and the evaluation criteria.

A high-powered committee consisting of eminent persons of impeccable reputation and integrity should be entrusted with the task of evaluating the bids and recommending the award to the most responsive bidder. Penalty clauses for non-compliance and

punitive measures against non-achievement of performance indicators should be incorporated in the award.

The tool kit issued by the sectoral ministry should specify the federal or provincial agency that would be responsible for issuing approvals, clearances, NOCs, land, utilities, etc. within the given timelines. Private partners would be given deadlines for raising finances and reaching financial closure.

To overcome the long-term financing problem faced by the private sponsors an Infrastructure Financing Facility should be established to meet the long-term financing needs of infrastructure projects.

Multilateral institutions such as the World Bank, ADB, ISDB, Asian Infrastructure Bank, bilateral institutions such as China Development Bank and domestically, pension funds, endowment funds, EOBI, provident funds and insurance companies should be prime investors in this facility. Debt capital markets should be tapped for issuing Sukuks and long-term bonds to mobilise resources.

The ministry would monitor the progress of each project and take remedial actions whenever required to meet the implementation schedule. Failure to comply with the provisions of the agreement without any cause should invoke penalty clauses.

India with the same problems and bureaucratic hassles as ours has been able to construct world-class airports at Delhi, Mumbai and Hyderabad, Delhi Metro and many other impressive projects combining the financing and technical expertise of the private sector with the legal, regulatory, concessionaire powers of the public sector. There is no reason why we should not be able to overcome our infrastructure deficiencies following this model. The writer is dean and director at the Institute of Business Administration, Karachi.