

The Commercial Law Development Program *Presents* *Public-Private Partnership Webinar Series*



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PPP or Traditional Procurement: Screening Projects



What is a public private partnership?

There is no universally accepted definition, but the concept is well understood.

The World Bank's Definition:

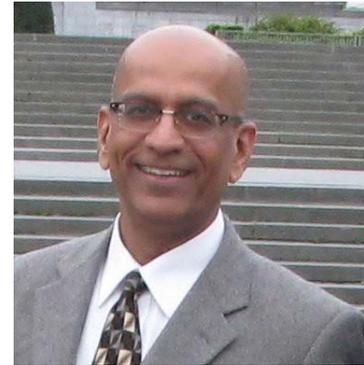
“A long term contract between a public party and a private party for the development and/or management of a public asset or service, in which the private agent bears significant risk and management responsibility throughout the life of the contract, and remuneration is significantly linked to performance and/or the demand or use of the asset or service.”



Today's presenters



Bryan Kendro
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Today's Agenda

Purpose of PPP Screening Tools

- Ensure economic merit
- Saves resources
- Prepare for the appraisal phase

Project Identification and Screening Steps

- Project Identification
- Scope & Preliminary Economic Analysis
- Cost-Benefit Analysis (CBA)
- Affordability Determination

- Cost-Effectiveness Analysis (CEA)
- Multi-Criteria Analysis (MCA)

Project Readiness

Evaluation

Public Sector Comparator



Purpose of PPP Screening Tools

- Determine which of a projects impacts are most important
 - Identify impacts - positive and negative
 - Screen impacts
 - Quantify impacts
- Account for uncertainty and risks
 - Data may be unavailable
 - Too time consuming to collect detailed data
 - Difficult to predict into the future - assumptions, omissions and biases
- Identify potential mitigation options
- Incorporate into project appraisals



Project Identification & Screening

Project Types:

- Solicited Projects
 - Identified and Developed Internally
- Unsolicited Project
 - Identified and Developed Initially by Private Sector
- Greenfield Projects
 - New Construction and Development
- Brownfield Projects
 - Upgrade and Investment in Existing Assets



Greenfield projects



Brownfield projects



Project Identification & Screening

Initial Screening:

- Achieve Public Policy Goals & Objectives
 - Aligns with Social, Economic, and Environmental Priorities
- Consistent with Private Sector Goals & Objectives
 - Ability to achieve a return on investment
- Opportunity for Private Sector Innovation, Efficiency & Technology Improvements
 - Can the private sector deliver the project more effectively and increase public value and benefit



Economic Feasibility

- Primary Economic Valuation Methods
 - Rely on data from first-hand sources
 - Methods include surveys to estimate willingness to pay (WTP)
- Secondary Economic Valuation Methods
 - Depends on secondary data sources such as research studies
 - Rapid analytic approaches
 - Quickly determine significance and magnitude of costs & benefits
 - Identify potential mitigation actions
 - Benefits transfer approach
 - Assign range of plausible values to costs & benefits

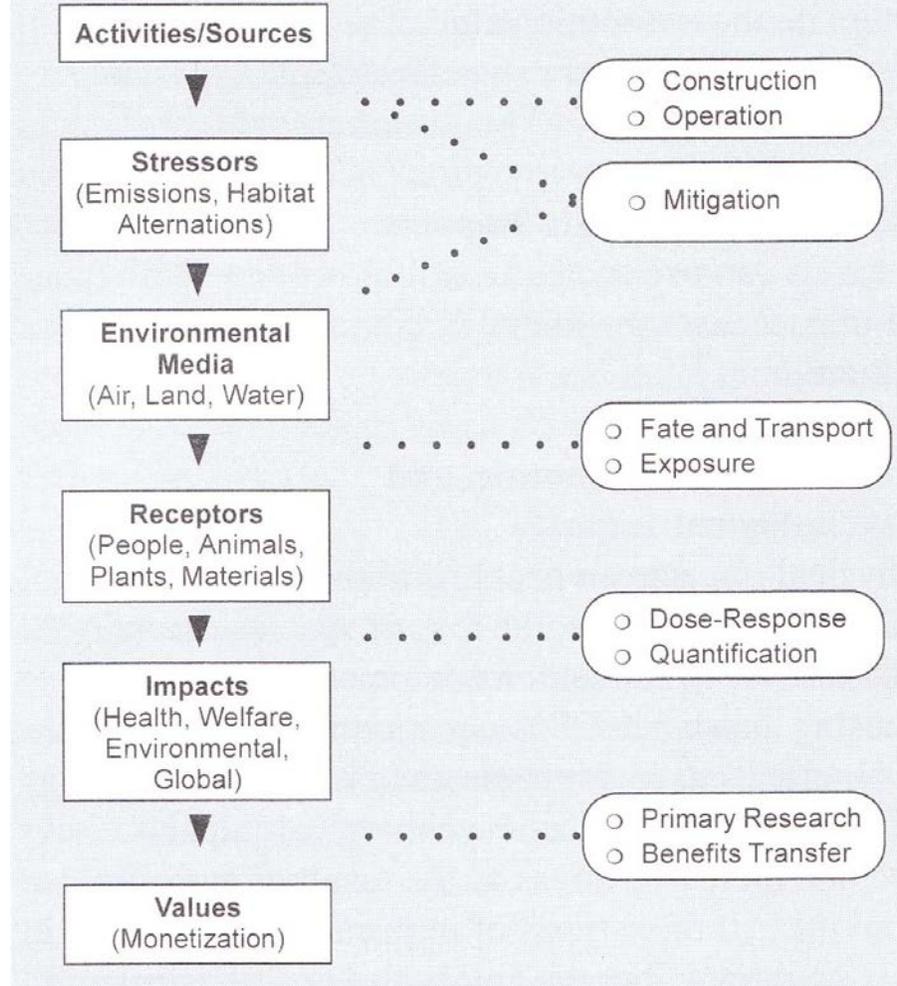


Economic Feasibility (continued)

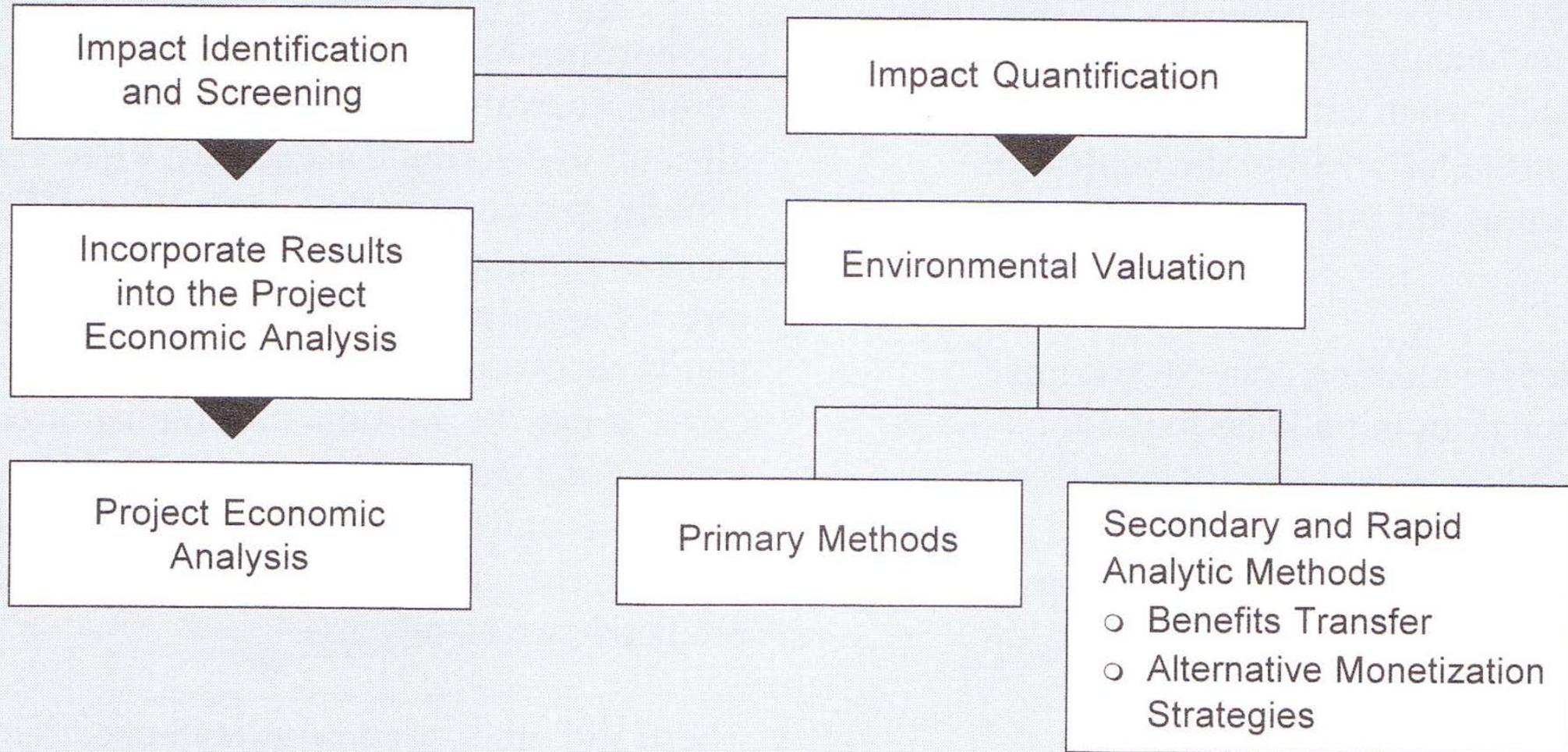
- Choice of tools is determined by data availability and quality
- Both types of analyses can provide equally accurate and useful information for decision making
- Several steps involved - identify:
 - Activities/sources
 - Stressors
 - Media (e.g.: air, land, water)
 - Receptors (e.g.: people, animals, plants, materials)
 - Impacts (e.g.: health, welfare, environment - local & global)
 - Values (monetization)



Steps Leading to Valuation of Environmental Impacts



Valuing Environmental Impacts

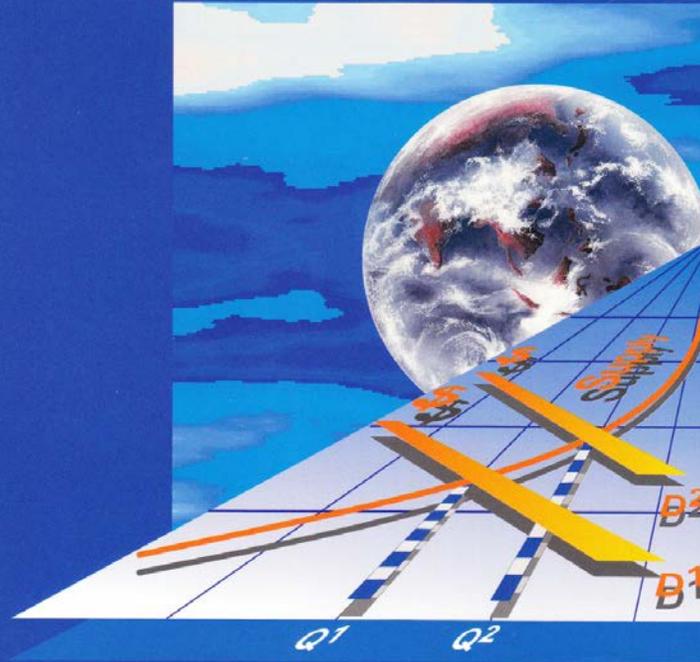


Economic Valuation Methods for Nonmarket Goods and Services: Comparative Advantages and Disadvantages

Method	Advantage	Disadvantage
PRIMARY METHODS:		
Indirect		
Hedonic Pricing	Uses observed housing, property, or labor market behavior to infer values for environmental quality changes	Measures use values only, requires extensive market data, and assumes market prices capture the environmental good's value
Travel Cost/Recreation Demand	Uses observed tourist and recreation trip-taking behavior	Measures use values only, often expensive and time-intensive, to collect adequate data
Contingent Valuation	Only method that can estimate nonuse values; can also estimate use values	Time-intensive and expensive to implement, challenges in framing survey questions, potential response biases
Direct		
Contingent Ranking	Questions may be easier to answer than contingent valuation	Difficult to compute and requires large samples
SECONDARY METHOD		
Benefits Transfer	Practical interpretation of state-of-the-art primary research; time-saving; can be adapted to a variety of project types and countries	Problems may arise in adjusting values from project/site where primary analysis was conducted to project/site under consideration



Economic Evaluation of Environmental Impacts



A WORKBOOK Executive Summary

Asian Development Bank



Project Readiness

Foundation for Success:

- **Strong Political Support & Governance**
 - Need for a Political Champion and Coalition of Support
 - Adequate governance structure and legal authority
- **Sufficient Due Diligence & Data Available**
 - Governmental / Third Party Approvals, Site Due Diligence, Utility Identification, Existing Asset Condition Data (if brownfield)
- **Property Authority & Land Rights**
 - Land Acquisition / Permitted Use
- **Availability of Supporting Networks & Systems**
 - Existing Utilities and/or Construction of Utility Distribution Systems



Upcoming Webinars

PPP Pre-Feasibility and Feasibility Studies

The PPP process requires a significant amount of time and resources. To ensure that those resources are well spent, it is important to ensure that a project is feasible. There are two different steps for feasibility. The first is a pre-feasibility study that feeds into the business case for a PPP. The second is the more complex feasibility study as part of the tender and bid process.

PPP Business Case Development

The PPP process requires a significant amount of time and resources. To ensure that those resources are well spent, it is important to ensure that PPPs have the requisite business case and make financial sense in order to move forward. In this webinar, we will learn about how to structure the business case for a PPP.

PPP Pre-Qualification and Evaluation

The PPP process requires a significant amount of time and resources. To ensure that those resources are well spent, it is important to have well established pre-qualification and evaluation procedures for the RfP process. Governments often run into difficulties in the pre-qualification and evaluation phase. This webinar will walk participants through how to design the evaluation process to ensure the best bid is selected.

Unsolicited Proposals

Unsolicited proposals when used properly are a way for the private sector to propose innovative solutions to problems. The webinar would provide an overview of how to implement procedures at the agency level, prioritizing or limiting the types of proposals received, confidentiality policies, transparent evaluation procedures, and fair reimbursement of costs for an accepted proposal.





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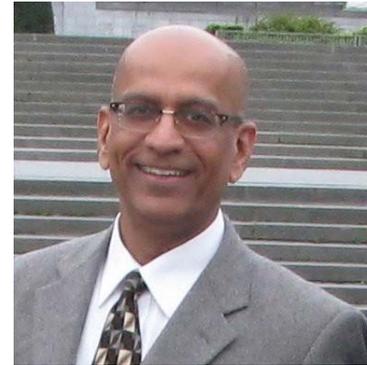
Welcome & Recap



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Agenda

- Screening Matrix Introduction
- Project Case Study
- Scope and Preliminary Economic Analysis
 - PPP suitability
 - Public Sector Comparator
 - Consistent with Policy Objectives
- Aligns with Private Sector Interests
- Project Readiness Determination
- Economic Feasibility
 - Affordability Analysis
- Screening Determination



Screening Matrix

Risk Category	Risk Category	Risk Category
Policy/Strategy: Gov Approval & Funding	Site Condition/Environmental Geotechnical Environmental/Archaeology Relocation	
Transaction/Tender Process		Policy/Strategic
Due Diligence		Government Approvals for Project
Scope Changes		Government Funding
Delays in Award/Financial Close	Specialized Equipment Technology	Project Schedule
Termination (without Cause)	Completion/Commissioning	Transaction/Tender Process
Project Agreement	Maintenance & Life Cycle	Due Diligence
Ambiguity		Operation
Termination During Construction/Operations	Inflation During O&M	Tendering Competition
Design		Delays in Contract Award/Financial Close
Stakeholder Consultations		Termination Prior to Financial Close
Design/Innovation/Compliance		
Scope Changes		
Construction		



Project Case Study

- A government enters into three innovative 30-year PPP contracts with private sector contractors to upgrade an underground rail system.
- Four years later, two of the three contractors went bankrupt when they could no longer meet their obligations.
- Some of the improvements were completed on time and within budget, others have been delayed.
- The loss to the taxpayer is \$200 million to \$500 million. What could have been done better?



Scope & Preliminary Economic Analysis

PPP Suitability

- Consistent with Public Policy Goals and Objectives, Consistent with Agency Goals and Objectives
 - Passenger safety, security and affordability
 - Transportation reliability and access
 - Modernization
- Project Goals:
 - Cost Predictability.
 - Leverage Private Sector Expertise.
 - Retain Public Operations of Trains.



Scope & Preliminary Economic Analysis

Public Sector Comparator



A number of options were analyzed. The Government concluded that:

- Under conventional public sector management the subway had long suffered from under-funding and from financial uncertainty as a result of annual public expenditure reviews.
- The subway's management of major capital programs had been weak, leading to substantial cost and time over-runs.



Scope & Preliminary Economic Analysis

Project Readiness Considerations

- Does the project have adequate political support at all levels of government with jurisdiction?
- Are other projects, systems or networks required to support the project available or will they be available when necessary?
- Is there sufficient data and information available for bidders?



Scope & Preliminary Economic Analysis

Private Sector Alignment of Interests

Case Study Reality:

- Poor data on existing condition and significant unknown-condition events expected.
- Difficult to provide firm fixed price bids without contingencies
- Need for periodic cost adjustments.
- High procurement and transaction costs.
- On two occasions, required rebidding of contracts.
- Work commencement was delayed by 2 years.
- 22 years vs. anticipated 15 years of maintenance backlog.



Screening Matrix Evaluation

Risk Category	Owner	Project Co	Share
Policy/Strategy: Gov Approval & Funding	X		
Transaction/Tender Process			
Due Diligence			X
Scope Changes	X		
Delays in Award/Financial Close	X		X
Termination (without Cause)	X		
Project Agreement			
Ambiguity			X
Termination During Construction/Operations	X		
Design			
Stakeholder Consultations			X
Design/Innovation/Compliance		X	
Scope Changes	X		
Construction		X	



Screening Matrix Evaluation

Risk Category	Owner	Project Co	Share
Site Condition/Environmental Geotechnical		X	
Environmental/Archaeology Relocation			X X
Specialized Equipment Technology			X
Completion/Commissioning		X	
Maintenance & Life Cycle		X	
Operation		X	
Inflation During O&M		X	



Economic Feasibility

Affordability Determination



- Does the project generate revenue from rate payers, tolls or other user fees?
- Will the project likely require public subsidy in the form of ongoing payments, offtake commitments, etc.?
- What is the cost/contingency required for risks retained by the public agency?



Scope & Preliminary Economic Analysis

Affordability Determination

Case Study Reality:

- Agreed to reimburse for bidding costs (stipend).
- No firm fixed price - periodic review and update of pricing.
- Guarantee of up to 95% of the debt upon termination.
- Unusually high cost of capital / financing costs.
- Bids prices far exceeded affordability – required retendering,
- Late in the procurement process, it was determined that there would be insufficient power to support the project.
- Limited termination rights for default / poor performance.



Screening Matrix Evaluation

Risk Category	Owner	Project Co	Share
Funding-Payment-Revenues	X		
Cost Over-runs/Cost Increases (market inflation)	X		
Financing Risks (Recourse, interest rates, financial market)	X		
Change in Law			X
Procurement Risk related to Financing and Affordability	X		
Financial Capacity and Strength of Delivery Partners		X	



Overall Project Feasibility Evaluation

Risk Category	Owner	Project Co	Share
Policy/Strategy: Gov Approval & Funding	X		
Transaction/Tender Process			
Due Diligence			X
Scope Changes	X		
Delays in Award/Financial Close	X		X
Termination (without Cause)	X		
Project Agreement			
Ambiguity			X
Termination During Construction/Operations	X		
Design			
Stakeholder Consultations			X
Design/Innovation/Compliance		X	
Scope Changes	X		
Construction		X	



Overall Project Feasibility Evaluation

Risk Category	Owner	Project Co	Share
Site Condition/Environmental Geotechnical		X	
Environmental/Archaeology Relocation			X X
Specialized Equipment Technology			X
Completion/Commissioning		X	
Maintenance & Life Cycle		X	
Operation		X	
Inflation During O&M		X	



Overall Project Feasibility Evaluation

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