

# Working Paper Series Paper 39



## **Private Finance Initiative (PFI) and Public Private Partnerships (PPPs): Definitions and Sources**

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INTRODUCTION .....	3
DEFINITIONS.....	4
Deregulation/liberalisation.....	4
Privatisation .....	4
♦ IPO Initial Public Offering.....	4
♦ Trade sale .....	4
Contracting out/outourcing/sub-contracting.....	4
♦ CCT Compulsory Competitive Tendering.....	5
♦ Market Testing.....	5
Public Private Partnerships.....	5
PFI Private Finance Initiative .....	5
♦ DBFO Design, Build, Finance and Operate.....	5
♦ DB Design and Build .....	6
♦ FM Facilities Management .....	6
♦ O&M Operation and Maintenance Contract.....	6
♦ LDO Lease Develop Operate.....	6
♦ BOOT Build Own Operate Transfer.....	6
♦ BOO Build Own Operate.....	6
The French model of concessions or delegated management.....	6
ON-LINE SOURCES .....	8
Public services and privatisation.....	8
Public sector alternatives .....	9
PFI/PPP (general).....	11
Selected UK PFI contracts .....	12
Sectors.....	13
♦ Health.....	13
♦ Education .....	16
♦ Justice.....	18
♦ Social Services .....	18
♦ Utilities (water and energy) .....	18
♦ Waste management .....	21
♦ Transport.....	21
Company focus .....	21
Organisations .....	23
Union Federations .....	23
Unions .....	23
Research Bodies.....	23
Publications.....	24
Others.....	24
SELECTED BIBLIOGRAPHY .....	25

## INTRODUCTION

In recent years there has been a proliferation of schemes promoting co-operation between the public and private sectors to provide infrastructure development over a wide range of economic activities. Governments in many different parts of the world have embraced these Public-Private Partnerships (PPP) arrangements. One stated reason for these developments is a concern over public expenditure. These arrangements are often presented as a core part of 'modernising public services, so there is a claim that such initiatives are part of improving the quality and efficiency of public services.

PPPs are contentious. The European Commission identifies four principal roles for the private sector in PPP schemes:

- to provide additional capital;
- to provide alternative management and implementation skills;
- to provide value added to the consumer and the public at large;
- to provide better identification of needs and optimal use of resources.

However, while this is a positive view of PPPs, many take a more sceptical view of their value, pointing to their complexity, the short-term and long-term costs and the consequences for labour and those reliant on public services.

## **DEFINITIONS**

PPPs in the UK have developed against a background of two decades of increased use of the market in public services. This has been through a combination of deregulation (or liberalisation), privatisation and contracting out.

### **Deregulation/liberalisation**

The terms de-regulations and liberalisation are often used interchangeably. However, either term can be used in two senses.

First, it refers to the general opening of state activities to private sector competition. This has taken the form of the break-up of public sector monopolies through privatisation and the subsequent opening-up of markets to competitors.

Second, it refers to general government policy aimed at encouraging enterprise and job creation through the removal of what are seen as legislative constraints ('red tape') on businesses, especially small firms. The Conservative governments of the 1980s argued that much legislation aimed at protecting employee rights was inimical to the effective working of the labour market and hence to efficient performance (EIRO).

### **Privatisation**

Before the large scale adoption of the policy of selling off state assets under Margaret Thatcher, this policy was called denationalisation.

Entire state corporations and nationalized industries such as British Telecom, British Gas and the electricity supply industry were sold into the private sector by a combination of share issues (see IPO) and trade sales.

Sometimes people use the term privatisation to include the policy requiring parts of the public sector such as local government and the National Health Service to contract out work previously done by their own employees (see CCT, contracting out).

#### **♦ IPO Initial Public Offering**

This refers to the first sale of shares in a company to the public.

#### **♦ Trade sale**

This refers to a privatisation in which a state asset is sold as a unit to a private company without a public share offering.

### **Contracting out/outsourcing/sub-contracting**

The policy of contracting out to a private service supplier, a service which would previously have been provided by in-house staff

### ◆ **CCT Compulsory Competitive Tendering**

In the 1980s the Conservative government introduced legislation to force local councils to put out to tender a number of named services. The Labour government abolished CCT but introduced the 'Best Value' regime in its place, which requires local councils to consider whether contracting out would be appropriate for all of their services.

### ◆ **Market Testing**

A procedure for re-pricing the provision of certain soft services on a periodic basis by means of competitive tender (4ps b). This procedure usually included an in-house bid.

### **Public Private Partnerships.**

Definitions are wide-ranging:

- It can mean just about any collaboration between the public and private sectors. It covers PFI, but it also embraces traditional procurement in which a public body engages a private company for a specific purpose (for example to build a road).
- In international terms it is used equally broadly, so that the ILO becomes a PPP under some definitions.
- It is sometimes more narrowly used to describe a joint venture between a private and public body in which risk is shared.

### **PFI Private Finance Initiative**

PFI projects are usually long-term contracts for services that include the provision of associated facilities or properties. Under the contract, the private sector entity will have responsibility for designing and constructing the building or facility and maintaining and servicing it throughout the contract term (Scottish Executive).

There are a variety of slightly different forms of PFI, the most important of which are listed below. Design Build Finance Operate (DBFO) is the most common and is also similar to the French model of the concession used in the water industry (see below). However, different combinations of the construction, operation, and finance responsibilities appear in the various options and there are also often different patterns of ownership.

### ◆ **DBFO Design, Build, Finance and Operate**

A contract let under the principles of the private finance initiative whereby the same supplier undertakes the design and construction of an asset and thereafter maintains it for an extended period, often 25 or 30 years (Audit Commission 2003).

#### ◆ **DB Design and Build**

A contract where a single supplier is responsible for designing and constructing a built asset (Audit Commission 2003).

#### ◆ **FM Facilities Management**

Management of services relating to the operation of a building. Includes such activities as maintenance, security, catering and external and internal cleaning. (Audit Commission 2003).

#### ◆ **O&M Operation and Maintenance Contract**

These projects involve the private sector operating a publicly-owned facility under contract with the Government (Dept of the Parliamentary Library, Australia).

#### ◆ **LDO Lease Develop Operate**

This type of project involves a private developer being given a long-term lease to operate and expand an existing facility. The private developer agrees to invest in facility improvements and can recover the investment plus a reasonable return over the term of the lease (Dept of the Parliamentary Library, Australia).

#### ◆ **BOOT Build Own Operate Transfer**

Projects of the Build-Own-Operate-Transfer (BOOT) type involve a private developer financing, building, owning and operating a facility for a specified period. At the expiration of the specified period, the facility is returned to the Government (Dept of the Parliamentary Library, Australia).

#### ◆ **BOO Build Own Operate**

The Build-Own-Operate (BOO) project operates similarly to a BOOT project, except that the private sector owns the facility in perpetuity. The developer may be subject to regulatory constraints on operations and, in some cases, pricing. The long term right to operate the facility provides the developer with significant financial incentive for the capital investment in the facility (Dept of the Parliamentary Library, Australia).

### **The French model of concessions or delegated management**

Delegated management (*gestion déléguée*) is a system where the delivery of a public service is assigned to a third party. The term “delegated management” however can have a more restrictive meaning, namely that of “delegation of public service” as it appears in the law of 29 January 1993 (Sapin law). Under this meaning of the term, the delegation of public service corresponds to a contractual procedure that differs from that provided for by the French public procurement code.

The term “delegated management” applies to a contract concluded for the delivery of a public service, where the remuneration of the delegatee is largely dependent on

operating results, and where management of the service is entrusted to a legal entity which can be a private company, individual, local semi-public company, association, another local authority or a public corporation not controlled by the delegating local authority.

As can be seen from the above, the French delegated management model has many similarities with some forms of the PFI in the UK.

In theory, there are three main variants of concession:

- a concession in the strict sense (*“concession”* in French) when the private company has complete responsibility for operating the system, and making the necessary investments in the infrastructure, and takes responsibility for financing them at its own risk (*“à ses risques et périls”* in French). Build-operate-transfer (BOT) concessions are usually of this type.
- an operating concession (*“affermage”* in French), whereby the private company has to operate the business and carry out maintenance at its own risk, depending on revenue from water charges - but the commune remains the owner of the infrastructure, and is responsible for investment in the system.
- management contracts (*“gérance”* in French), in which the company is paid a flat fee to manage the system, without taking any responsibility or risk for investments.

In practice, concessions do not always fit neatly into a single category. However, the technical distinction between *concessions* and *affermages* may be of great significance in respect of rules on public finances and tendering. According to the French state audit office, Cour des Comptes, if the contract is a concession in the strict sense, then the rules on public works contracts (*“Code des marchés publics”*) do not apply - and so works contracts do not have to be tendered. This means that other companies in the same group can enjoy privileged access to the contracts without having to compete for them.

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## Sectors

One feature of the PPP approach is that specific arrangements have been developed in key sectors.

### ◆ Health

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October 2002

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PSIRU. Regulation in a deregulated energy market: British experience

September 2002

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<http://www.gmb.org.uk/docs/pdfs/Tube-consortia.pdf>

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[http://www.gmb.org.uk/docs/pdfs/RailwayCompaniesAndPFI\(Re-Revised\)1.pdf](http://www.gmb.org.uk/docs/pdfs/RailwayCompaniesAndPFI(Re-Revised)1.pdf)

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30 January 2003

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Unison. A web of private interest

24 June 2002

<http://www.unison.org.uk/acrobat/B362.pdf>

Unison. Public Service - Private Profit - how the fat cats got the cream

23 April 2002

<http://www.unison.org.uk/acrobat/B314.pdf>

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## Organisations

The following union federations, individual unions, research bodies, campaign groups and publications regularly publish information, news and analysis of various forms of PPPs and public service alternatives.

### Union Federations

Public Services International

<http://www.world-psi.org/>

European Federation of Public Service Unions

<http://www.epsu.org>

### Unions

Unison (UK)

<http://www.unison.org.uk/>

General and Municipal Workers, GMB (UK)

<http://www.gmb.org.uk>

Canadian Union of Public Employees, CUPE (Canada)

<http://www.cupe.ca/>

National Union of Public and General Employees, NUPGE (Canada)

<http://www.nupge.ca/>

National Union of Teachers, NUT (UK)

<http://www.teachers.org.uk>

American Federation of Teachers, AFT (USA)

<http://www.aft.org/privatization/welcome.html>

American Federation of State County and Municipal Employees, AFSCME (USA)

<http://www.afscme.org/private/index.html>

### Research Bodies

Public Services International Research Unit (PSIRU)

<http://www.psiru.org/>

Public World

<http://www.publicworld.org/>

Catalyst

<http://www.catalystforum.org.uk/>

Public Health Policy Unit, University College London

[http://www.ucl.ac.uk/spp/about/health\\_policy/index.php](http://www.ucl.ac.uk/spp/about/health_policy/index.php)

Labour Research Department

<http://www.lrd.org.uk/>

Centre for Public Services

<http://www.centre.public.org.uk/>

National Labour and Economic Development Institute, NALEDI (South Africa)

<http://www.naledi.org.za/>

Municipal Services Project (South Africa)

<http://qsilver.queensu.ca/~mspadmin/>

## **Publications**

British Medical Journal

<http://bmj.com/>

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International Labour Office

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