

PUBLIC

PUBLIC PRIVATE PARTNERSHIPS GUIDANCE MATERIAL



POLICY

PRIVATE

PARTNERSHIPS



Queensland Government
State Development

FOREWORD



ACHIEVING VALUE FOR MONEY IN PUBLIC INFRASTRUCTURE AND SERVICE DELIVERY

Queensland's Smart State agenda is a comprehensive strategy to achieve community and economic growth by doing things smarter.

To meet the infrastructure needs of a rapidly growing State, the smart approach is to explore every reasonable opportunity to provide quality facilities that allow the delivery of effective services throughout their economic life.

Increasingly, Public Private Partnerships are emerging as an infrastructure delivery option that can offer best value for money, by introducing incentives to innovate in design, construction, operation and in managing the risks of these substantial investments.

This Guidance Material lays out a Framework for analysing the full range of options for delivering necessary infrastructure facilities. By adopting this framework, Government agencies can ensure that the whole-of-life costs and risks of delivering infrastructure are analysed, and that the opportunity for private innovation is properly explored.

The Guidance Material builds on the release of the Queensland Government's PPP Policy in September 2001, and a draft was released for public consultation in May 2002. The infrastructure sector, the union movement and other interested stakeholders have provided valuable feedback as the Material has been developed.

The Department of State Development's Infrastructure Partnerships TaskForce (IPT) and Queensland Treasury have jointly developed this material, in close consultation with other Queensland Government departments. They have been assisted greatly by the pathbreaking work undertaken by Partnerships Victoria, and I thank Treasurer John Brumby for his generosity in providing access to the copyright of their material.

The PPP Guidance material has been developed in line with the policies now existing, or being developed, in other States in support of a national commitment to the rigorous assessment of the potential for private sector involvement in the delivery of major infrastructure Projects.

A wide range of projects are currently being analysed for value for money delivery, possibly as a PPP. The Government is committed to exploring PPPs as a delivery option for major infrastructure projects.

I encourage all infrastructure practitioners, public or private, to apply the principles laid out in the PPP Guidance Material, and explore how to maximise value for money so that Queensland can have the infrastructure it needs, when it needs it.

A stylized, handwritten signature in black ink, appearing to read 'Tom Barton', followed by a long horizontal line extending to the right.

Tom Barton MP
Minister for State Development

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OVERVIEW

This policy provides a high level framework that will be underpinned by detailed guidance material, which will be developed in consultation with Government agencies and private sector parties and which will be subject to continuing assessment and review.

The Queensland Government accepts that in creating effective and efficient infrastructure in Queensland that there is a role to be played by all sectors of the economy for the optimal delivery of infrastructure and services. The Government is committed to securing the best value for money in its acquisition of infrastructure and services through the responsible use of both the public and private sector resources.

Significant private sector involvement in the provision of a public infrastructure need or service should be encouraged in infrastructure projects where it can be shown that the State will achieve better value for money through a relationship contract with the private sector for a project's delivery and/or service, compared with the option of delivering the project and/or service entirely at the public sector's cost and risk.

International evidence indicates that through an optimally developed relationship contract with the private sector the Government can secure significant benefits through qualitative risk transfer to the private sector, and by harnessing private sector management skills, innovation and efficiencies, through a long term and output based contractual arrangement.

The infrastructure and service delivery methodology used to deliver a value for money outcome is based on the assessment of need, affordability and priority, and tested to ensure the public interest is fully protected.

Community input into the project development will be provided through appropriate planning mechanisms, and the Government will protect the public interest through probity, transparency, and with effective conflict resolution and fair appeals processes.

Prior to an in principle decision to seek private sector involvement in the provision of infrastructure or service, the Government will prepare a full feasibility study, including benefit cost analysis of the proposed project. This feasibility study will also include a full assessment of the project's risk, and verifying the merit of the options for financing and delivering the project.

The policy guidance will provide a clear, transparent and accountable framework for undertaking the feasibility studies and the public tender process and procurement arrangements.

VALUE FOR MONEY

Implementation of the policy will be vigorously pursued where it is likely that a better outcome can be achieved when measured against the traditional infrastructure or service delivery methods.

To make this assessment of whether or not private sector involvement will deliver value for money on a particular project, it is essential that a thorough and detailed analysis be undertaken of all of the project's costs and potential revenue streams available under the traditional methods of project delivery. It is essential that all risks associated with the traditional development, construction and operation of the project are also identified and qualified. This assessment is called the Public Sector Comparator, and provides the basis upon which value for money can be tested.

Value for money may be achieved on infrastructure and service delivery projects where:

- the project size justifies the transaction and management costs;
- there is a defined measurable service delivery function or output mechanism;
- there is scope within the project delivery for the optimisation and the allocation of manageable risk to the private sector, delivering a cost effective outcome;
- there is scope for sector private sector innovation, value adding and/or cost reductions in the delivery and operation of the service;
- that there is real value in transferring responsibility for the operational and maintenance phase of the project to the private sector; and
- there is an identifiable market of private sector bidders prepared to compete for the opportunity to deliver the project.

Following the development of the Public Sector Comparator the Government will then develop the project contractual relationship model, based predominantly on the appropriate allocation of risk. In this model the Government will also determine the benefits of project specific output specification, the contract term, available performance incentives, benefit of effective competition in the tender process, and any other project specific management or operational efficiencies and other benefits this policy approach may provide.

Under this policy the governing principle of a project's risk allocation is that risk will be allocated to whichever party is best able to manage that risk, taking into account the public interest considerations. It is not the Government's intention under this policy to necessarily attempt to transfer all project risk to the private sector, as it fully recognises that the inappropriate transfer of risk will generate and carry a significant premium.

Government recognises that it is inappropriate to seek private sector involvement in public infrastructure provision unless all significant project risks are identified and the Government has quantified what risks and costs, if any, it is prepared to retain and what risks and costs it expects can be justifiably transferred to the private sector.

POLICY SCOPE AND EXTENT OF APPLICATION

This policy applies to the provision of public infrastructure and any infrastructure related service delivery that may involve private investment or financing. The term 'infrastructure' can extend beyond physical assets to encompass major information technology procurements. In this context 'service delivery' may encompass accommodation services arising out of infrastructure or building-related services such as maintenance and some support services. The Government will determine the extent of private sector involvement in service delivery on a case by case basis. The policy application will cover a diversity of different projects and a range of contractual relationship models.

This policy applies to public infrastructure projects where the expected capital value will exceed \$30M or the Net Present Value (NPV) of the strategic priority will exceed \$50M during the term of the contractual relationship.

The policy applies to all such projects entered into by Government Departments, unless a specific Government decision advises that other provisions will apply. The portfolio Minister may write to CBRC seeking to exempt from the Policy a project which lies above the threshold, or include a project that lies below the threshold, having first consulted with the Minister for State Development and the Treasurer.

This policy does not apply to the general procurement of services by the Government where infrastructure is not being provided, for example through professional consulting services.

OBJECTIVES OF THE POLICY

Private sector involvement in the provision of a public infrastructure need or service should be encouraged in projects where it can be shown that the State will achieve a better value for money outcome.

The Government will develop contractual relationships with the private sector under this policy with the following objectives in mind:

- To optimise the level of infrastructure expenditure through the responsible use of the resources of the public and private sectors;
- To ensure that infrastructure and related service delivery is provided in accordance with best practice, and where appropriate to relevant national and international standards;
- To promote and sustain economic development growth and employment opportunities for the whole of Queensland;
- To significantly improve service delivery to the community;
- To encourage innovation in the provision of infrastructure and related service delivery;
- To maximise the social and economic returns from Government investment;
- To secure and pass on to the benefits of the policy to the customers, businesses and the Queensland community; and
- To clearly articulate accountabilities for outcomes.

In undertaking projects in a contractual relationship with the private sector the Government will have regard for the development of industry, investment, recruitment, and skill development and transfer.



PRINCIPLES OF THE POLICY

In developing contractual relationships with the private sector to deliver these policy objectives, the following principles underpin the Government's approach:

- Performance measures should be established to ensure that the quality of the services delivered meets the needs of the community and that the project outcomes are transparent;
- Projects should focus on the output specification (the end result) rather than the input specification (the means of delivery);
- Projects to be delivered under the policy framework must have Government approval, prior to the formal involvement of the private sector;
- The allocation of risk and the commercial framework of the contractual relationship model utilised should be capable of delivering the best value for money outcome for Queensland;
- Private sector participation is to be subject to a competitive tendering process, consistent with the principles of the Government's State Purchasing Policy;
- The principles of transparency and accountability for process and outcomes must be observed, with full recognition of the requirement to protect private sector intellectual capital and commercial confidentially where appropriate;
- The conduct of the public sector should always be such that confidence in the probity regime is implemented and maintained at all times;
- Where possible standardised approaches should be used to minimise transaction cost and time; and
- Where appropriate, incentives for all parties should be considered to encourage a high level of performance.

SAFEGUARDING THE PUBLIC INTEREST

The Queensland Government is committed to ensuring that each project delivered through a contractual relationship with the private sector under this policy will be assessed for the potential to impact upon the public interest on:

Affected individuals and communities. Have those affected been able to contribute effectively at the planning stages, and are their rights protected through fair appeals processes and other conflict resolution mechanisms?

Public Access. Are there safeguards that ensure ongoing public access to essential infrastructure?

Equity. Are there adequate arrangements to ensure that disadvantaged groups can effectively use the infrastructure?

Consumer rights. Does the project provide sufficient safeguards for consumers; particularly those for whom the Government has a high level of duty of care and/or are most vulnerable?

Security. Does the project provide assurance that community health and safety will be secured?

Privacy. Does the project provide adequate protection of users' rights to privacy?

Accountability and transparency. Do the relationship contract arrangements ensure that the community can be well informed about the obligations of the Government and the private sector proponent, and can the Auditor-General oversight these obligations?

Effectiveness. Is the project effective in meeting the Government's objectives?

Where appropriate, the contractual relationship documents may include measures to safeguard the public interest.



THE NATURE OF RELATIONSHIP CONTRACTS

The Queensland Government recognises that infrastructure or service delivery projects delivered under the policy fundamentally bring the private and public sectors together for mutual benefit. It is also recognised that these contractual relationships can take a variety of forms, and that there is no single preferred form.

However these projects will generally have a number of common features;

- Clear articulation of the Government's responsibilities particularly with respect to the monitoring of outcomes;
- Contractual terms that include mechanisms for delivering ongoing value for money throughout the duration of the contract;
- Specified outputs and measurable performance standards;
- Payment mechanisms that apply only on the delivery of the specified services at the required standards;
- One or more private party that is fully accountable to the Government for the delivery of the specified services;
- Clear and enforceable risk allocation between the contractual parties with consequential financial outcomes; and
- A long term commitment, with the term dependent on the specific nature of the project.

Before being offered to the private sector, the individual project's required outputs would be clearly specified by Government. This will allow bidders to compete through the creative development of their proposals for delivering the output, with a view to reducing project delivery costs. Consequently the Government is likely to limit its detailed specification of an infrastructure project's input or the means by which the service outputs are generated, specifically to avoid any stifling of the potential to secure value for money through private sector innovation.

In consideration of the private sector proposals received in response to the specified outputs, the Government will be open to solutions through which proponents may derive additional benefit or revenue, subject to the overall value for money delivery of the project and the public interest test.

The Government may require the responsible agency to undertake a market sounding of the potential project, which if required, will be undertaken under an appropriate probity process through a relevant sample of the industry practitioners.

The seeking of private sector participation under these relationship contract arrangements will only be considered once the responsible agency is confident that value for money can be attained, and that there is sufficient market interest willing to accept the associated project risks.

CORPORATE GOVERNANCE

Underpinning this policy is an efficient Cabinet approval process to overview the implementation of the project initiatives. The Cabinet Budget Review Committee will be responsible for the review of each proposal in consideration of the project's conformity to Government policy, and the project's need and affordability.

The relevant Portfolio Minister will be responsible for each project initiative under the policy.

The Minister for State Development is responsible for developing and overseeing the policy framework.

The Treasury Department will work with the responsible agency in its capacity as a financial/commercial adviser to Government, on such projects.

Cabinet will further approve the progress of each project at key points before the project brief is released to the shortlisted bidders. Issuing of the project brief indicates that the Government is prepared to proceed with the project provided that a received bid provides value for money in comparison with the Public Sector Comparator.

Cabinet will be informed of the selection of a suitable preferred developer for each project, and again before contract documentation is signed at the project's financial close.

This accountability structure and approval process will apply uniformly unless Cabinet otherwise declares an alternative structure for an individual project's particular requirements.

A Government Project Team established within the responsible agency will be responsible for the delivery of the feasibility and procurement of the project.

The Government Project Team will have as its head a Project Director who may be an internal or external appointment. The responsible Portfolio Minister will delegate sufficient powers through the Chief Executive Officer to ensure the Project Director is suitably empowered, with appropriate reporting accountability, to deliver the project to cost, quality and time and to manage the Government Team.

The Government Project Team will support the Project Director, and comprise dedicated resources from the responsible agency, supplemented with other specialised Government resources as required and external financial, legal and technical advisers with appropriate experience in implementing the relevant project initiative.

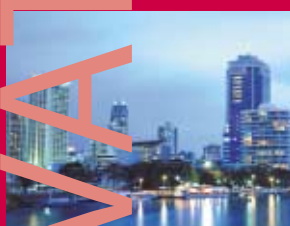
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