Contemporary Chinese Political Economy and Strategic Relations: An International Journal Vol. 1, No. 3, December 2015, pp. 663-698

Managing across Public-Private Partnerships: A Review of Implementation in China and Australia

Loo-See **Beh***
University of Malaya

Abstract

Public-private partnership is about governance in the contemporary public service and public interest in public administration with the participation of private sector in the market economy in establishing strategic partnerships in responsible economic management of public services. This article provides an overview of the implementation of public-private partnerships and how these evidences have been managed across China (including Hong Kong SAR) and Australia. It also depicts the key challenges of managing them in both countries given their different stages of maturity in implementation framework of regulation and evaluation.

Keywords: *public-private partnerships, public administration, China, Australia*

JEL classification: *H41, H44, L32, L33*

1. Introduction

Although much research has been devoted to understanding public-private partnerships (PPPs) as an alternative means of providing public infrastructure with a focus on services and/or outputs, the contextual nature of management approaches is important for understanding administrative centrality in this policy tool. The PPP understanding we have in mind is where a private entity is contracted to deliver public infrastructure-based services, a switch from traditional public procurement methods to provision of infrastructure. Partnership has been the fashionable trend since the Thatcher government of the United Kingdom embarked on a large-scale privatisation program beginning with the sale of British Telecom in 1984 followed by many other experiences in Europe. Following these developments, the evolution of PPP models also covered a large spectrum of projects across Australia since the 1980s. In China, the position was also similarly experienced in 1980s but only much later was a series of policies, guidance materials and rules relating to the provision of public facilities and services drafted. For example, the Ministry of Construction issued the "Opinions on Acceleration of Privatization Process of Public Facilities" in December 2002 and the "Rules on Management of Franchised Operation of Public Facilities" in May 2003. Among others, the Shenzhen Government also advocated the "Rules for the Franchised Operation of Public Facilities" in May 2003 and the Beijing Government the "Rules for the Franchised Operation of Basic Urban Facilities" in October 2003. Eventually the PPP law in China was only set up officially in 2014.

The term partnership is a dominant slogan in the rhetoric of public sector reform, capturing from privatization to PPP and now private finance initiative (PFI) though PFI is not used in China. The broader framework of PPP in China today includes both policy-level partnerships and project-level partnerships. Policy-level partnerships coordinate both public and private sector inputs on design and formulation of policy initiatives whilst project-level partnerships focus on specific situations or development of a particular project with inputs of private capital finance and management.

PPPs in Australia as in other countries have been subject to increasing criticisms (Wettenhall, 2003). In retrospect, many projects have been shown to have reduced the net worth of the public sector and misallocated risk (Quiggin, 1996, 2004; Spackman, 2002). Particularly the partnership is about governance in the contemporary public service and public interest in the market economy. Leaving the noted criticisms, this article provides a modest overview of the implementation and managing across PPPs in Australia and China which both countries commonly initiated in early 1980s but are of different legislation establishments. Evidences of several implementations of PPPs in China are reviewed followed by the Australian experience across different sectors in both countries since the 1980s.

2. Development of PPPs in China

China has a provincial and city-driven PPP program operating under national regulation. The central government is responsible for the regulatory framework and approval of all major infrastructure projects. The detailed administrative measures are provided by subnational governments who lead in the implementation of PPP.

In recent years the terms public-private partnerships (PPPs) and later private-finance initiatives (PFIs, though not much yet in China) have been used throughout the world to describe joint approaches to infrastructure and service delivery between the public and private sectors. In many countries, this engagement has occurred in the presence or the absence of a formal policy to protect the public interest and to guide the private sector. In some countries like Australia, United Kingdom and Canada, such formal policy and related documents are evident for commitments to the highest standards possible for strategic partnerships in order to establish a strong record of responsible economic management.

From the mid-1980s to the 1990s, the first stage of PPP in China was initiated in the power and water sectors namely Shenzhen Shajiao B power project, Laibin B power project in Guangxi, Chengdu water project and the Changsha power project. Though there exist policy frameworks such as "Opinions on Acceleration of Privatization Process of Public Facilities" in December 2002; "Rules on Management of Franchised Operation of Public Facilities" and "Rules for the Franchised Operation of Public Facilities" both in May 2003 and the "Rules for the Franchised Operation of Basic Urban Facilities" in October 2003, they are relatively minimal as compared to other developed countries who have been practicing PPPs. Though at a minimum, it serves as a start towards the circumstances of supporting PPPs.

The setup of PPP law is led by the Department of Laws and Regulations of the National Development and Reform Commission commenced only in early 2014 who evaluate and approve project application reports of PPP projects despite the early-on implementation. As such, a PPP working group was only established under the Ministry of Finance in May 2014. A total of 30 projects were announced in which 8 are new and 22 transferred from local financing platforms covering transport, wastewater treatment, water and heat supply, environmental restoration, pipe networks, medical treatment and sport facilities and new energy vehicles. Nevertheless, since the 1980s more than 1000 PPP projects have been mobilised (Asian Development Bank, 2014).

It is understandable that the main drivers for PPP adoption are very much economy-related. Favourable policies and reasons for advocating PPPs in China are mainly:

- Inadequate investment in public facilities and services given the high rate of urbanization, relatively low standard of public facilities and services;
- Limited funding sources and inadequate private investment in public facilities and services given that the main source is government funding;
- Slow rate of reform of state-owned enterprises and poor provision of public facilities and services.

On the last point above, perhaps many have viewed the state-owned enterprises (SOEs) as relics of a failed economic experiment as had been in the pursuance of privatization policy by the Conservative Administration of Thatcher and Major from 1979 to 1997 on the majority of state-owned enterprises. In the case of China, an out-of-date impression of SOEs distorts the picture of China's competitive landscape as the line between the SOEs and private-sector companies has blurred considerably (Woetzel, 2008). Many observers define a Chinese SOE as one of the 150 or so corporations that report directly to the central government. Thousands more fall into a grey area, including subsidiaries of these 150 corporations, companies owned by provincial and municipal governments, and companies that have been partially privatized yet retain the state as a majority or influential shareholder. The oil company China National Offshore Oil Corporation (CNOOC) and the Chinese utility State Grid Corporation of China (SGCC), for instance, are clearly SOEs under the first classification, while the computer maker Lenovo and the appliance giant Haier are less clear-cut cases, in which the state is the significant shareholder. A majority of the equity in the automaker Chery Automobile belongs to the municipal government of Wuhu. Further, market forces unleashed by government reforms are pushing SOEs to become more open (Woetzel, 2008).

The Chinese government has been promoting PPPs in the provision of public services to meet the needs of public facilities and improve quality, service delivery, and efficiency. In early October 2004, 54 infrastructure projects involving RMB 70 billion[1] were bid for by private companies through the Ministry of Finance. There are 14 different modes of PPP existing within three generic types – outsourcing, concession, and divestiture (Beh, 2007). For instance in recent developments, almost half of the Olympic sports areas in Beijing were constructed using the PPP model in addition to the Yizhuang natural gas project, the No. 5 underground project and the Beiyuan waste water project in Beijing.

3. Selected Cases of PPPs in China

The government remained much in control of public sectors such as water services, energy, waste management and public transport. In the mid-1990s, the China government promulgated the *Circular on Attracting Foreign Investment through BOT Approach* (No. 89 Policy Paper of 1994, the former Ministry of Foreign Trade and Economic Cooperation, 16 January 1995) and the *Circular on Major Issues of Approval Administration of the Franchise Pilot Projects with Foreign Investment* (No. 208 Policy Paper of Foreign Investment, the former National Development and Planning Commission, the Ministry of Electric Power Industry, and the Ministry of Communications, 1995). These legislative circulars formed the basis for public-private partnerships and foreign capital investments. Following that, the National Development and Reform Commission firstly approved three BOT infrastructure projects in 1996 include Chengdu No.6 Water Supply BOT Plant, Guangxi Laibin Power BOT Plant, and Changsha Wangcheng Power BOT Plant (failed) (Zhong, Mol, and Fu, 2008).

3.1. Water and Waste Management

In China, BOT/BTO contracts, transferring risk and payment to the public sector (i.e. with payments by a public authority rather than end-users), have been used for the development of new water-services projects. This is a positive phenomenon, but how real is any risk transfer? It might be argued that if the PPP fails it is quite likely that the public authority will incur extra costs to maintain the public service, so risk transfer will fail anyway to this extent. However, it would not be correct to suggest that this is what always happens if PPP projects get into trouble.

One of China's first wastewater treatment plants to be delivered using a PPP, the Guangzhou Xi Lang Wastewater Treatment Plant, was completed by the Guangzhou Sewage Treatment Co. (GSTC) and Earth Tech. (Anonymous, 2008). The consulting firm, which also helped arrange part of the project's financing, served as the plant's designer, construction manager and operator. As part of Guangzhou's commitment to promote sustainable development and improve water quality in the Pearl River, the city decided to pursue an innovative approach to constructing new wastewater treatment facilities. The build-operate-transfer project was completed six months ahead of schedule and came in under a budget cost of approximately USD 130 million. It has a maximum capacity to treat 260,000 m3/d and features a biological nutrient removal process and an ultraviolet disinfection system that are both state of the art. Earth Tech will operate and maintain the plant's treatment systems for 17 years, after which operation of the plant will be returned to GSTC. The plant's design includes a possible second phase that would double its capacity. The plant was financed in part by Tyco International, Earth Tech's parent company, and a major Chinese bank.

Direct investment demand for urban wastewater infrastructure (including wastewater treatment, sewers, and sludge treatment) in China was over USD 30 billion between 2006 and 2010, to meet the objective of 60% municipal wastewater treatment. Accordingly, local governments prefer direct private sector investment in new wastewater management resulting in high levels of Greenfield modes where financing is based on negotiated prices between the government and the private sector and is less dependent on the user fee/charge (Zhong, Mol and Fu, 2008).

In rural water management, a 4-year USD 6.792 million joint project by United Nations Development Program (UNDP), Ministry of Water Resources, China International Center for Economic and Technical Exchange under the Ministry of Commerce, and The Coca-Cola Company in the provinces of Sichuan, Heilongjiang, Xinjiang, and Liaoning provides basic sanitation, water safety technologies, rebuilding of drainage pipelines and ecologically sustainable agricultural technologies for water conservation.

3.2. Health

The China Health Alliance (CHA) is a new PPP catalysed by the World Economic Forum's Global Health Initiative. Founding members and partners of the China Health Alliance to date include Accenture, China National Textile and Apparel Council (CNTAC), Constella Futures, Esquel, Institute of Contemporary Observation, iKang, Karstadt Quelle, Marie Stopes International China, Pfizer, Social Accountability

International, Standard Chartered Bank, Swire Beverages, UNAIDS, UNDP, World Health Organisation (WHO) and World Vision International. Each member is actively supporting the set-up and implementation of the Alliance's programs. The partnership is designed to educate, test, treat, and support Chinese company employees at risks of TB and AIDS besides raising public awareness of growing public health threats in China, witnessing the pilot project in Guangdong (*China Daily*, 14 September 2007).

Further, Merck Sharp & Dohme and DaimlerChrysler also formed partnership with China's non-governmental organizations and government agencies, for example Ministry of Health, on a USD 30 million project on HIV/AIDS prevention and treatment. Other partnerships include Quality Brands Protection Committee, International Council of Toy Industries, the China Business Council on Sustainable Development and Global Business Coalition on HIV/AIDS.

3.3. Infrastructure

Infrastructure development in China increased tremendously especially over the past 20 years. There are numerous projects to be elaborated upon within the complex interdependencies and networks. One such project is the Citong project where there were many challenges faced. Among those challenges were that with the ownership of local transportation facilities localized from provincial government to the municipal government, revenue of Quanzhou Bridge is channelled fully into the city public accounts instead of partially as agreed upon earlier and the design of the connectivity of the highway to the city. Others include absence of operation right assurance, finance, standardized operation procedures, complex procedures of obtaining approval, and lack of regulation. Hence, the situation in which difficulties arise due to changes of agreements from time to time, deficiencies and unnecessary secrecy surrounding the contracts and public interests and allocation of risks accurately defined in the policy seems vital.

China's rapidly growing aviation industry has challenged on-going efforts to maintain effective safety and security operations. The US Training Development Aviation helped to structure the China Aviation Cooperation Program with the goal of facilitating U.S. government and U.S. aviation industry training and technical cooperation with China identified by the General Administration of Civil Aviation of China (CAAC). This program is supported by twenty-one U.S. private sector member companies and public sector contributions from the Federal Aviation Administration and the CAAC.

The Beijing Metro Line 4 was developed by the Beijing Municipal Government as a PPP with China MTR Corporation Ltd as the main private sector partner (49%), the Beijing Capital Group Co. (49%) which is an SOE of the Beijing Municipal Government and Beijing Infrastructure Investment Co. Ltd (2%), another SOE. China MTR's operations cover international markets such as Australia and Europe in addition to Hong Kong and China. Another project, Beijing Line 14 is also being developed as a PPP. Both projects are for a concessionaire of 30 years.

3.4. Gas

China Gas Holdings (CGH) has entered into PPPs with municipal governments to distribute natural gas and liquefied petroleum gas supply since 2004 serving 196 cities in 21 provinces of 27 million people with projects worth USD 200 million. Prior to that coal gas was used which accounts for 68% of the energy usage. With the expanding potential of abundant natural gas reserves, capital expansion and expertise available, there is large potential for demand in power generation and residential use and opening downstream activities to private sector, thus introducing competition as compared to distribution traditionally controlled by municipal governments.

4. Key Challenges Facing PPPs in China

Since relatively PPP is a new initiative in China, there exist commonly the key challenges namely:

- Limited capacity of civil society/NGOs to manage partnership;
- Lack of experience on commercial, technical, legal, and political aspects of PPPs;
- Too much emphasis on attracting investment from private sector and too little attention given to market competition;
- PPPs have been treated as privatization of public facilities/services focusing on short-term return without a spirit of long-term partnership.
- The financial risk and burden shifted to public without the corresponding increase in service quality;
- Inadequate knowledge on PPPs, lack of proper risk assessment;
- Lack of administrative framework for PPP projects.

A key aspect of PPPs, as the name suggests, is the central involvement of a private-sector entity with a public-sector entity. The objective of the partnership is to import private sector to the delivery of a service which has previously been accepted as the responsibility of government and it is the introduction of a private-sector entity which creates an accountability dilemma. After all, the choice of using a PPP as a medium to deliver services is a policy decision of the government. Rosenau (1999) argued that the success of a partnership arrangement was dependent on setting out clear goals and clear lines of responsibility. This can only be accomplished if the problem is well understood and the government service required is clearly specified.

PPPs are generally entered into for a lengthy period of time, and are developed in an environment of uncertainty. Hence it is important to develop a governance framework that would involve performance aspects, tools of analysis, and key issues. There are many suggestions as to how PPPs can be better managed. One of these is pointed out here. According to Grimsey and Lewis (2004), among the key ingredients in developing a typical PPP project together with the roles of the government at each stage are:

- A focus on defining services, with the emphasis on the delivery of infrastructure services using new or refurbished public infrastructure assets;
- Planning and specification, so that government's desired outcomes and output specifications are clear to the market;
- Creating a viable business case for the private party;
- Certainty of process, ensuring that any conditions to be fulfilled are clearly understood before the project proceeds;
- Project resourcing to enable government to advance the project and address issues in line with published time-frames;
- Clear contractual requirements, centred on key performance specifications, to promote performance and minimise disputes;
- Formation of a partnership to encourage good faith and goodwill between government and the private party in all project dealings;
- Contract management to monitor and implement the contract.

The key question that needs to be addressed is: do PPP projects deliver better results in terms of time and cost outcomes in comparison with traditional projects? While competitive tendering is the default, direct negotiation is widely used which may result in higher-cost PPPs. Regardless of any viable complex risks allocation framework and service delivery performance in place, it should be mindful that the ultimate responsibility for service delivery and performance of essential public services rests with the government, and the author believes that China is mindful of this responsibility and as in any governance, more efforts in policy and regulation must be enhanced in multiple financing channels and operations management as well as establishing a comprehensive evaluation system. In this regard, the Hong Kong SAR contributes significantly to achieving the government's policy of PPPs.

5. Development of PPPs in Hong Kong SAR

In contrast, the Hong Kong Special Administrative Region (SAR) has established its PPP policy documents well emulating the UK and Australian model through optimal risk allocation and other efficiency measures. Hong Kong has a long history of attracting private sector investment and operating skills to deliver public services, most notably major infrastructure facilities such as the cross-harbour and other tunnels developed using the Build-Operate-Transfer (BOT) approach. A number of projects are at different stages of development, or have, for example, had feasibility studies conducted on them. PPPs in Hong Kong are most likely to adopt the Design-Build-Finance-Operate (DBFO) model or the DBO (Design-Build-Operate) model. The major difference between a DBFO and a DBO, in the Hong Kong context, is the timing and nature of the payments for the facilities associated with the project. Examples of PPP projects in Hong Kong include Hong Kong Disneyland, Asia

World-Expo, Ngong Ping Skyrail, Marine Police Headquarters and many other potential projects such as North Lantau Hospital, Cruise Terminal, West Kowloon Cultural District, Sports Stadium, etc.

In Hong Kong, the definition of PPP has been termed differently from privatization just as in the context of Australia. With a PPP, government retains ultimate responsibility for the delivery of services throughout the contract. Although some PPPs may involve existing government assets being transferred to the private partner, in Hong Kong this will normally only be for the duration of the contract, not in perpetuity. After the expiry of the contract term the service obligation will revert to government. On occasion, as with a privatization, a PPP may also involve the opportunity for civil servants to be transferred permanently or temporarily.

Subject to the proper construction and interpretation of any relevant legislation in any particular situation, the Hong Kong government has extensive constitutional and common law powers to make commercial contracts including PPP contracts. There are lists of documents pertaining to PPPs such as *A General Guide to Outsourcing*, *A User Guide to Contract Management*, and *An Introductory Guide to Public Private Partnerships (PPPs)*. Outsourcing is one of the key forms of private sector involvement in Hong Kong. It supports the government's policy of minimum intervention and maximum support. Over the past, Hong Kong government departments have contracted out many activities including capital development (infrastructure and building) and administrative and maintenance functions (building and property management, cleaning, security, plant and equipment maintenance), environment, hygiene, training and development and welfare services. The Independent Commission against Corruption (ICAC) has published a best practice guide on government outsourcing.

In Hong Kong, a PPP is considered in circumstances where:

- There is a major investment programme, requiring effective management of risks associated with construction and delivery; this may be a single major project or a series of replicable smaller projects;
- The private sector has the expertise to deliver and there is good reason to think that it will offer value for money;
- The structure of the service is appropriate, allowing the public sector to define its service needs as outputs/outcomes that can be adequately contracted for in a way that ensures effective, equitable and accountable delivery of public services in the long term;
- Where risk allocation between the public and private sectors can be clearly made and enforced;
- The nature of the assets and services involved are capable of being costed on a long-term, whole-of-life basis;
- The value of the project is sufficiently large to ensure that procurement costs are not disproportionate;
- The technology and other aspects are reasonably stable and not susceptible to short term-paced changes. Where a project involves a facility (e.g. a hospital) where the equipment inside is subject to rapid technological development, arrangements separate from the PPP contract can be made;
- Planning horizons are long-term, with assets intended to be used over long periods.

Circumstances in which PPPs are not favourable are also mentioned. PPP proposals also take into account public interest criteria covering accountability, transparency, equity, public access, consumer rights, security, privacy, and the rights of affected individuals and communities. The principles of transparency and accountability are crucial to the affected and interested parties, further minimizing the likelihood of any misunderstandings or misperceptions.

Hence we see the extensive policy-making of PPP-structured framework and governance of PPP in Hong Kong as compared to mainland China. The roles played by the public and private sectors are distinctively established and those within the various departments in the public sector are defined. The utilization of a public sector comparator as exampled in Australia is another element besides value for money which enables comparison with bids and allowances for imputed cost of government borrowing and appropriate level of investment. All these are made public knowledge where possible. With clear statements of information and output performance specifications, then the desire for well-established PPP process and projects are committed into managing risks and re-assessment of risks throughout the PPP approach. Areas of funding and payment and managing performance can then be dealt with effectively taking into account changes in circumstances and issues that may arise later. Thus the governance of PPP and its intended output is effectively enforced in Hong Kong as also emulated upon in Australia.

6. Development of PPPs in Australia

Relatively, PPPs in Australia have developed well into the final maturity curve of privatization. Policy and guidance materials have been developed at the federal and state levels each with its own retrospect compared to China. However, despite its maturity, notwithstanding, PPPs in Australia have experienced much success on many occasions but also effectively failed on numerous occasions and particularly infrastructure.

At the Australian government level, the term PPP refers to a form of government procurement involving the use of private-sector capital to wholly or partly fund an asset that would have otherwise been purchased directly by the government. A PPP arrangement is generally an option to be considered for major asset and infrastructure procurements. PPPs are often used to support, or in conjunction with, the delivery of related services. The procurement arrangements are managed through long-term relationship contracts with private sector financiers and service providers.

It was not necessarily a fear of failure that ended the extensive privatization policy but, rather, the fact that there was little left to sell or politically possible to do so without alienating public opinion. It was at this point that PPPs started to emerge. For example, with PPPs, overall control of health and education could remain with the public sector but the private sector could be involved in some aspects of the supply of such services (Broadbent and Laughlin, 2004).

7. PPP Framework in Australia

The National PPP Working Group was established in 2004 to lead the development of policy, guidelines and practices of PPP, increase consistency and cooperation across jurisdictions, increase competition in the PPP market as well as ensure value for money in the delivery of PPPs. This Working Group reports annually to the Heads of Treasuries and the Ministerial Council of Treasurers and on a need-basis to the Council of Australia Governments and its Infrastructure Working Group. The National Public Private Partnership Guidelines (2008) have been prepared and endorsed by Infrastructure Australia and the State, Territory and Commonwealth Governments as an agreed framework for the delivery of PPP projects (*National Public Private Partnership Guidelines – Overview*, 2008).

The government has established a specialist PPP Unit within the Department of Finance and Administration (Finance). The Unit will work collaboratively with agencies and their advisers to assist with assessing the relative merits and viability of PPP proposals. According to the document *Australian Government Policy Principles for the Use of Public Private Partnerships, Financial Management Guidance No. 21*, the PPP principles set out the:

a) types of arrangements to which the PPP principles will apply;
b) relationship between the PPP principles and existing policy and processes;
c) policy principles that must be considered when developing procurement proposals which scope the use of PPPs; and
d) assessment and approval processes for PPP proposals.

The Australian government's objectives in establishing the PPP principles are to:

a) provide agencies with guidance, through a policy and process framework, when developing PPP proposals and assessing the relative merits of PPP arrangements in comparison with other procurement methods; and
b) help ensure the effective and responsible allocation of Australian government resources and fiscal management.

According to this document, the PPP principles will apply to a relationship or proposed relationship between the Australian government and the private sector where private-sector finance is used to fund an asset or infrastructure (whether or not ultimately owned) that is used to deliver goods, services or other outputs for or on behalf of an agency. The assets or infrastructure may be used in conjunction with associated services, which may also be delivered by the private sector, to produce an output which contributes to the achievement of government-defined outcomes. The key feature distinguishing PPPs from traditional procurement is that the private sector acquires the underlying asset or infrastructure, at least initially. In return, the Australian government makes long-term commitments to pay for the resulting outputs.

The potential for a PPP procurement approach exists where there is opportunity for:

a) long-term contracts (e.g. 15 to 30 years) involving asset-based procurement, with a whole-of-life cost in excess of AUD 100 million[2], while projects in the range of AUD 20 million to AUD 100 million can also be considered as PPPs;
b) risk transfer, including an optimal level of ownership and operational risk, including residual value risk between the parties;
c) grouping of a range of individual service and asset provision contracts into a single long-term contractual agreement; and
d) implementing a performance-based contract.

The ability for the private sector project to earn additional revenue, by selling excess capacity associated with the underlying infrastructure to third parties may also be an indicator of a PPP representing value for money. The three core principles for assessing whether a PPP arrangement should be the preferred procurement method used are: *value for money*, *transparency*, and *accountability*.

A core principle that underpins procurement activity, including PPPs, is *value for money*. It is to be tested by comparing the outputs and costs of PPP proposal against a neutral benchmark, called the "public sector comparator" (PSC), developed by the agency (and its advisers) in consultation with the PPP unit. This encompasses the factors of innovation, risks transfer, cost and risk issues, improved asset utilisation, ownership and management synergies, and improved project management.[3]

The second principle, *transparency*, is related to the disclosure of information to the Joint Standing Committee on Public Works, which considers and reports on Commonwealth public works projects. The use of PPPs should not diminish the availability of information to parliament, taxpayers, and other stakeholders on the use of government resources. Completed PPP contracts should be disclosed in an agency's annual report in accordance with the Finance Minister's Orders. Financial statements included in an agency's budget documentation should be prepared on a basis consistent with the annual report to which provisions of the Charter of Budget Honesty Act 1998 apply.

The third principle, *accountability*, pay close attention to how existing accountability arrangements impact on the relationship between agencies and contractors. Standard best practices clauses on audit access, security, privacy, and parliamentary access should be included in all PPP arrangements. Further guidance has been developed and issued by Finance. These will support the development of a thorough and enduring PPP policy framework commensurate with experience gained from the application of PPPs in the Australian context.

8. Governance of PPPs in Australia

Notwithstanding, the governance of PPPs in Australia are not without problems and challenges where arrangements often involve a more complex set of operational management and financial risks than traditional approaches.

The lack of a suitable contracting and governance (direction and control) framework for PPPs is noted by Hodge (2004), who studied risks associated with PPPs by looking at formal contract conditions. In reality, not much is known about the specific factors that contribute to governance and project success or failure (Bloomfield, 2006). Johnston and Gudergan (2007) indicated three themes relating to PPP governance issues which are divided into the technical-rational, social context and risk. The evidence suggests that government systems within PPPs are usually incomplete and not up to a level of competence that allowed the contract to remain as a governance control mechanism once the implementation phase was reached. Due to unforeseen risks, this led to a breakdown in the social contract through political risk.

There is a huge literature on PPP projects in Australia that are too luminous to be detailed in this article alone, hence only some infrastructure projects are reviewed here not with the intention of leaving out any significant PPP projects,[4] but only for the purpose of demonstrating the involvement and undertaking of the respective state governments in these PPP initiatives. As at May 2015, PPP projects amongst many include ACT Supreme Court redevelopment and Capital Metro in the capital territory government, NT gas pipeline in the Northern Territory, Toowoomba Second Range Crossing in Queensland, and new schools projects in Victoria and Western Australia.

9. Infrastructure Australia

The current federal infrastructure policy is based on the Department of Transport and Regional Services' 2004 AusLink white paper. When the Rudd government took over in 2007, one of the first acts was to rename the old Department of Transport and Regional Services (DoTARS) – it is now called the Department of Infrastructure, Transport, Regional Development and Local Government. It is significant in the sense that it is a clear statement to the community and department bureaucrats that the department is under new management. This was reflected in the established Infrastructure Australia on 21 January 2008. Among other objectives, Infrastructure Australia will analyse the regulatory and financial issues, and evaluate the methods of implementation including the pros and cons of PPPs. Infrastructure Australia is a statutory authority and produce its first Infrastructure Priority List within 12 months. However, there were criticisms on the rationale why a response should take 12 months when the agenda should be established within the first 3 months (Ericson, 2008).

9.1. Examples of PPPs in Victoria

Examples of early PPPs from the late 1980s to 1992 include the Victorian Accelerated Infrastructure Program, Train/Locomotive Leases, St. Vincent's Hospital Redevelopment and Melbourne Magistrates Court. The objective at the time was achieved but often through inefficient arrangements. In the 1993-1999 era, PPPs were governed by the Infrastructure Investment Policy for Victoria (1994). The PPPs of this era were generally characterised by high level of risk transfer, private sector being responsible for full service provision including custodial services in prisons and clinical services in public hospitals, the private-sector entity not being paid until the commencement of services, and the government not guaranteeing returns, as it did in the late 1980s and early 1990s. Examples of PPPs of that period include the Melbourne CityLink, various water and wastewater treatment plants, public transport franchises, three prisons (Women's, Port Philip and Fulham) as well as Latrobe and Mildura Hospitals. Concerns reported by the audit review of government contracts were that: (1) social and regional impact analysis was deficient; (2) benchmarking performance levels involved only limited comparisons; (3) economic evaluation was not undertaken in some cases and was not comprehensive in some others; and (4) unnecessary secrecy surrounded some of the major contracts.

From the year 2000 to the present, there is a better clear quest to achieve value for money in the public interest outlined in the Partnerships Victoria policy released in June 2000 and other guidance materials widely regarded as some of the most comprehensive released the following year: *The Overview*, *The Practitioners' Guide*, *The Risk Allocation and Contractual Issues Guide*, and *The Public Sector Comparator*. Other guidance materials released later include *Contract Management Policy and Guidelines* (June 2003), *Public Sector Comparator Supplementary Technical Note* (July 2003), and *Use of Discount Rate in the Partnerships Victoria Process* (July 2003).

The Partnerships Victoria policy introduced in 2000 provides the framework for a whole-of-government approach to the provision of public infrastructure and related ancillary services through PPPs. Partnerships Victoria is part of the Commercial Division in the Department of Treasury and Finance. There were 17 Partnerships Victoria projects worth around AUD 5.5 billion in capital investment. The policy focuses on whole-of-life costing and full consideration of project risks and optimal risk allocation between the public and private sectors. There is a clear approach to value for money assessment and the public interest is protected by a formal public interest test and the retention of core public services. Since 2002-03, Partnerships Victoria projects have accounted for approximately 10 per cent of annual public asset investment commitments. It aims to use the innovative skills and abilities of the private sector in a way that is most likely to deliver value for money and improved services to the community. It is used for major and complex capital projects with opportunities for innovation and risk transfer.

If the private-sector bids are not able to demonstrate superior value for money, the project will generally proceed under the traditional procurement approach. For example, the Fibre Optic Cable project was originally intended to be delivered under the Partnerships Victoria approach but ended up being delivered under the traditional approach due to Partnerships Victoria bids not delivering value for money.

The City Link road infrastructure project in Melbourne was one of Australia's largest public infrastructure BOOT projects. Linking up three major freeways in Melbourne (the South Eastern, West Gate and Tullamarine Freeways), the City Link comprised the construction of 22 kilometres of road, tunnel and bridge works through difficult silt conditions, as well as other associated works. There was a stream of legal controversies surrounding the project in addition to political and governance risks (Hodge, 2004).

9.2. Examples of PPPs in New South Wales (NSW)

Road agencies are contracting out more design aspects and are experimenting with combined contracts for construction and maintenance. An example is the Design, Construct and Maintain (DCM) contract for the Bulahdelah-Coolongolook deviation on the Pacific Highway in New South Wales, under which the contractor maintains the road for 10 years. The uncertainty of future funding for road agencies usually discourages such long-term commitments. A shadow toll arrangement resembles a DCM contract, except that government payments to the developer increase with the volume of traffic rather than being a fixed sum. The additional payment for each vehicle is a "shadow" toll paid out of general government revenue, rather than an actual toll that is charged to the road users. The new tolling arrangement for the M4 and M5 motorways in Sydney resemble shadow tolls; the government reimburses tolls paid for non-business vehicles that are registered in-State.

In Sydney, NSW, procurement strategies labelled generically as PPPs have been a popular approach. By 2001, there was more than AUD 5.5 billion worth within 20 infrastructure development arrangements and up till late 2005, AUD 3.4 billion had been implemented into PPP private too-way arrangements. Yet, a range of important PPP governance and organizational issues continue to remain problematic (Audit Office of NSW, 2006). The Cross City Tunnel (CCT) toll-way in Sydney, which became operational in August 2005, failed in December 2006. It was in fact a privately-funded project (PFI) but seemingly used under the generic label PPP. The major problems were the cost of tolls which was above the level the public was prepared to pay, limited alternative surface routes, and accusations about traffic funnelling. Some aspects of governance and management were problematic at the beginning of the operational phase. The toll was reduced eventually and road changes were later reversed by the government against the contract terms and this action is now subject to a legal claim with the company into the hands of an administrator and CCT was sold to another private operator (Johnston and Gudergan, 2007).

It is noted that, in NSW, Treasury (2006) have revised PFP guidelines which require a project board to continue well into the implementation phase of the PPP. This did not exist at the time when the CCT project failed.

The Build, Own, Operate and Transfer (BOOT-type) arrangements for several urban motorways such as Melbourne's City Link are the farthest Australia has gone toward privatising the road network. The arrangements provide private funding for motorways for which public funds are hard to raise. Recent BOOT projects in Australia have been mostly completed ahead of schedule. The Sydney M5 Motorway took two years to build, not four years as scheduled by the Roads and Traffic Authority, (RTA) New South Wales. Correspondingly, the construction period is reduced from four to two years. The main appeal of BOOT-type projects, compared with shadow tolling arrangements, is the reduced need for public finance (BTCE Working Paper 33, 1997).

Evidence of cost savings from contracting out government services needs to be viewed cautiously. It is limited in that it relates to construction costs only. On the M4 toll way, the use of asphalt rather than concrete paving reduced the costs of construction. RTA indicated it would pursue tighter conditions of the asset on transfer. The M5 toll way provides another example of the possible pitfalls in cost comparisons. RTA designers would have opted for relatively few piers and longer spans, to increase the bridge's aesthetic appeal and to minimise the obstacles to recreational users of the river. The developer's design was less satisfactory in these respects but took much less time to build (BTCE Working Paper 33, 1997).

9.3. South Australian experience

Partnerships SA is a procurement program for the private and public sectors that seeks to promote private sector participation in the delivery of government services to the community where there are sound reasons to support this approach. Partnering arrangements are not privatisation. Under a partnering agreement, the government retains a key strategic interest in the infrastructure and strong policy control over the services delivered, and in many cases, shares the risks of the project in agreement with the private sector partner over the life of the service agreement. The private sector can contribute innovative ideas and commercial discipline to the process. Equally, the private sector has a crucial role to play in protecting the public interest and safeguarding taxpayers' funds, having responsibility for deciding the level of services required given available resources and establishing and monitoring safety, quality and performance standards.

In considering private sector participation in public services, the government will need to be satisfied that a number of key criteria are met. These criteria are as follows:

- private sector involvement must deliver a net benefit to government, having regard to the risks of the project, compared to traditional public sector delivery;
- the risks associated with the project are clearly identified and allocated to the parties best able to manage those risks;
- projects are subject to a competitive bidding process, and direct negotiations may be entered into only under a limited set of circumstances; and
- probity is maintained during all phases of the process.

The purpose of the Projects and Government Enterprises Branch (PGE) is to facilitate private sector participation in infrastructure development where appropriate. PGE is located in the Department of Treasury and Finance; the Branch reports directly to the Under Treasurer. Agencies are required to consult with PGE in regard to all PPPs in South Australia. The role of the PGE is to:

- oversee public-private partnership (PPP) projects in South Australia by aiding agencies in the PPP process from the outline business case through to financial close. The branch also has responsibility to develop policy and guidelines related to PPPs, and to participate in intergovernmental forums dealing with PPP policy.
- provide investment and financing analysis for major government projects with a particular focus on infrastructure projects. This involves investigating alternative financing options for projects that have been

identified as priorities and where the government has approved the investment (outline) business case. This ranges from investigating alternative financing/procurement options through to supporting projects through to contractual and financial close.

The Clare District Council in rural South Australia divided its road grading work between council employees and private contractors. Recently, South Australia has introduced competitive tendering for maintenance of state roads, whereby the maintenance business units of the Department of Transport bid against private contractors. South Australia's larger state-based contractors were reluctant to bid because of heavy workloads on other projects at the time. By September 1996, 13 contracts had been let, 5 to private contractors and 8 to the department's own business units (BTCE, Working Paper 33, 1997).

9.4. Examples of PPPs in Tasmania

In July 2000, the government released a policy statement, and guidelines, on private sector participation in the provision of public infrastructure. By issuing the policy statement and guidelines, the government is indicating its strong commitment to maintaining and improving Tasmanian public infrastructure. The publications provide a clear framework – and details – regarding the government's objectives in seeking private sector involvement in infrastructure development. The "Policy Statement" paper outlines the framework within which the public sector seeks and develops infrastructure opportunities with the private sector. The "Guiding Principles" paper is a detailed document aimed at managers in agencies. It provides a clear set of "ground rules" for optimising the participation of the private sector in the provision of public infrastructure. The "Guiding Principles" paper:

- makes clear the government's attitude to critical issues for private sector involvement (e.g. achieving net benefits for the community);
- provides agencies with clear guidance on how to engage the private sector;
- clarifies the public policy context of infrastructure provision;
- outlines the lodgement, assessment and approval process through which a project must pass; and
- provides agencies with practical advice covering a checklist of the process, the determination of a public sector benchmark and the development of a business case for an infrastructure proposal.

As such, the private sector is expected to increase its involvement in the provision of public infrastructure as it responds to the additional clarity in the objectives of the government provided by the release of the government policy:

- "Private sector participation in public infrastructure provision – Policy statement"
- "Guiding principles for private sector participation in public infrastructure provision"

Examples of PPP include the Glenorchy City Council which reduced its costs for road cleaning by 15 per cent by contracting to the private sector. Fuller utilisation of equipment was one of the sources of cost savings noted. The contractor employed the equipment elsewhere when it was not being used in Glenorchy. Elimination of unspecified work practices that had lowered the efficiency of the in-house operation was also mentioned (BTCE Working Paper 33, 1997).

9.5. Queensland and Northern Territory Experience

The Value for Money Framework is a key element of the guidance material which provides the basis for the implementation of Queensland's PPP policy. It sets out comprehensive procedures for evaluating project delivery options to satisfy specific needs for infrastructure. In September 2001, the Queensland government released its policy on PPP, delivering all major infrastructure projects that support the government's strategic objectives. Queensland's PPP policy encompasses the full spectrum of project delivery options involving design, build and operate; build, finance and operate; and equity-sharing arrangements. Further, there are numerous variations on these concepts including build, own, operate and build, own, operate, transfer structures.

Maintenance work on the Barkly Highway is performed by private contractors on the Northern Territory side and by a local council on the Queensland stretch to Cloncurry. In 1994-95, the Queensland government paid the local council AUD 3,356 per kilometre of road maintained, far more than the AUD 690 paid to the private contractor on the other side of the border. The local council is the sole invitee for the maintenance contract in Queensland, whereas the Northern Territory uses competitive tendering. However, other factors, such as the type and amount of maintenance work performed, were also considered.

According to the South East Queensland Infrastructure Plan and Program 2008-2026 published in June 2008, in Queensland, the government's experience in working with the private sector has been positive with the Tugun Bypass and Inner Northern Busway both completed ahead of schedule, the South East Queensland Water Grid progressing on schedule and the Southbank Institute of TAFE redevelopment ahead of schedule. Another major project, the Airport Link Tunnel, is currently one of Australia's largest road tunnel public-private partnerships. This tunnel will link the North-South Bypass Tunnel, Inner City Bypass and local road networks in the city's northeast. It includes two parallel, seven-kilometre tunnels under several inner northern suburbs, including Wooloowin and Clayfield.

The Southbank Institute of TAFE Redevelopment Project is Queensland's first public-private partnership which in 1997 was awarded Best Global Project by the International Public Private Finance Awards. The project involves the construction of 11 new buildings and renovation of another four buildings on the South Bank campus.

The South East Queensland Schools project has seven new schools in the region built and maintained through PPP. This PPP, the first of its kind in Australia to be delivered under the supported debt model, innovatively use a combination of public and private funds to improve value for money.

Another project, the Gateway Upgrade is currently the largest road and bridge infrastructure project in Queensland's history. Queensland Motorways Ltd (a government-owned company) is delivering the project through a 30-year franchise agreement and has awarded the design, construction and maintenance contract to a private-sector partner.

10. Concluding Remarks

Given the promises and perils of government contracting, a public-private partnership will be most efficient when each sector operates where it has a comparative advantage. Looking ahead, the particular areas that the Australian government sees as being important for the evolution of PPPs are: (1) improving the bidding and evaluation processes; (2) developing the national market; and (3) increasing the range of PPP models (Maguire and Malinovitch, 2004). In the case of China, the priorities include the establishment of regulatory agencies, clear legislation and better understood fair exit mechanisms (Asian Development Bank, 2014).

Perhaps it is important to ponder on comments made by Broadbent and Laughlin (1999, 2004) that revealed many unanswered research questions. Five research questions come to mind despite the progress to PFIs and still remain relevant:

i) What is the underlying nature of and rationale for deciding to pursue PPP developments in different countries?
ii) What processes and procedures guide and aid the decisions to undertake PPPs in different areas of public service provision in different countries?
iii) What procedures and processes are in place to provide a post-project (decision) evaluation in different areas and in different countries?
iv) Do PPPs have real merit and worth, generally and in specific cases, nationally and internationally?
v) What can we discover through an international comparison from national PPP regulation and guidance, pre-decision processes, post-project evaluation systems and merit-and-worth judgments?

Nonetheless, policy-makers and practitioners may need to rely on evaluation information about a partnership's performance as a governing entity and its value-added to make judgements about effectiveness (Pope and Lewis, 2008). Despite criticism of PPPs, they will remain the preferred financing method as potential solution to urbanization challenge, innovation and knowledge transfer.

In a nutshell, there remains a more general need to explore what can be learned through a global and local comparison across all PPPs and how they can genuinely contribute to the welfare of the individuals and nations. PPP policy is a continuous development of public administration and it is important that the policy practices remain under review beyond market-based rhetoric of limited substance and ensuring procedural integrity of the process is maintained. In the context of the on-going debate on PPPs, many governments of the day continue to support the PPP model with better-developed implementation frameworks.

Notes

* Dr Loo-See Beh (馬露絲) is an Associate Professor at the Department of Administrative Studies and Politics, Faculty of Economics and Administration, University of Malaya, Malaysia. She holds a PhD in Training Management, MA in Political Science and BA (Hons.) in History and Political Science. Her research focus includes public administration and management studies. She has published both locally and internationally and serves as external reviewers and editorial board members for many reputable international journals and publications. Her most recent publications have appeared in journals like *Public Management Review*, *Review of Public Personnel Administration*, *Supply Chain Management: An International Journal*, *Total Quality Management & Business Excellence*, *PLoS One*, *Review of Educational Research*, *Australian Journal of Public Administration*, *The Copenhagen Journal of Asian Studies*, etc., and also a recent book *Culture and Gender in Leadership: Perspectives from the Middle East and Asia* published by Palgrave Macmillan, UK. <*Email: lucybeh@um.edu.my*>

1. A “yuan” of China’s currency *reminbi* (“people’s currency”) is equivalent to about USD 0.157.
2. An Australian dollar is equivalent to about 0.706 US dollars.
3. There are more details involved in the PSC which will be found in my other upcoming writings.
4. If there are then it is only with the author’s error.

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