Report Summary

Report of the Committee on revisiting and revitalising the PPP model of infrastructure

- The Committee on Revisiting and Revitalizing the PPP model of Infrastructure Development (Chair: Dr. Vijay Kelkar) submitted its report to the Finance Ministry on November 19, 2015. The Committee was formed following the Finance Minister's announcemet on revising the Public Private Partnership (PPP) mode of infrastructure development in his budget speech, 2015-16. This note summarises the key findings and recommendations of the report.
- Terms of reference of the Committee included: (i) reviewing the experience of PPP policy, including the variations in contracts and the difficulties experienced, (ii) analysing the risks involved in PPP projects in different sectors and the framework of risk sharing between the project developer and the government, (iii) proposing design modifications to the contractual arrangements of PPPs based on the above; and (iv) proposing measures to improve capacity building in government for effective implementation of PPP projects.
- **Revisiting PPPs**: The Committee noted that, with the current demographic transition, and the consequent growing need for better infrastructure, it is important for India to mature its current model of PPPs. PPPs have the potential to deliver infrastructure projects better and faster. Currently, PPP contracts focus more on fiscal benefits. The Committee recommended that the focus should instead be on service delivery for citizens. Further, fiscal reporting practices and performance monitoring of PPPs should be improved.
- The PPP model requires the involvement of a private partner to leverage financing and improve operational efficiencies. Therefore, state owned enterprises or public sector undertakings should not be allowed to bid for PPP projects. PPPs should not be used by the government to evade its responsibility of service delivery to citizens. This model should be adopted only after checking its viability for a project, in terms of costs and risks. Further, PPP structures should not be adopted for very small projects, since the benefits are not commensurate with the costs.
- **Risk allocation and management**: The Committee noted that inefficient and inequitable allocation of risk can be a major factor leading to failure of PPPs. PPP contracts should ensure optimal risk allocation across all stakeholders by ensuring that it is allocated to the entity that is best suited to manage the risk. A generic risk monitoring and evaluation framework should be developed covering all aspects of a project's lifecycle. The Committee also recommended the guidelines for risk allocation.
- **Strengthening policy and governance:** Ministry of Finance may develop a national PPP policy document, endorsed by Parliament. The Committee also recommended formulating a PPP law, if feasible. Further, the Prevention of Corruption Act, 1988 should be amended to distinguish between genuine errors in decision making and acts of corruption by public servants.
- **Strengthening institutional capacity:** The capacity of all stakeholders including regulators, authorities, consultants, financing agencies, etc should be built up. A national level institution should be set up to support institutional capacity building activities, and encouraging private investments with regard to PPPs. Independent regulators must be set up in sectors that are going for PPPs. An Infrastructure PPP Project Review Committee may be set up to evaluate PPP projects. An Infrastructure PPP Adjudication Tribunal should also be constituted. A quick, efficient, and enforceable dispute resolution mechanism must be developed for PPP projects.
- Government should notify guidelines for auditing of PPPs, only enabling the review of government internal systems. Special Purpose Vehicles (private partners) should follow norms of corporate governance and financial disclosures as per the Companies Act, 2013.
- **Strengthening contracts**: Since infrastructure projects span over 20-30 years, a private developer may lose bargaining power because of abrupt changes in the economic or policy environment. The Committee recommended that the private sector must be protected against such loss of bargaining power. This could be ensured by amending the terms of the PPP contracts to allow for renegotiations. The decision on a renegotiated concession agreement must be based on (i) full disclosure of renegotiated costs, risks and benefits, (ii) comparison with the financial position of the government at the time of signing the agreement, and (iii) comparison with the existing financial position of the government just before renegotiation.

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