

Terminology of Public–Private Partnerships (PPPs)

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TERMINOLOGY OF PUBLIC-PRIVATE PARTNERSHIPS (PPPS)	1
1 KEY WORDS: ‘PRIVATISATION’, ‘PPPS’ AND ‘PSP’	2
1.1 Ideology and words.....	2
1.2 EU: no formal definition of PPP	2
2 DIFFERENT TYPES OF PPPS	2
2.1 Four elements	2
2.2 Other variations	3
2.3 Other non-contractual privatisation terms.....	4
2.4 Beyond definitions: a continuum of cases	4
3 FRENCH AND UK MODELS	5
3.1 The French model: concessions and delegated management.....	5
3.2 UK PFI model	6
4 INTERNATIONAL USAGE	6

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1 Key words: ‘privatisation’, ‘PPPs’ and ‘PSP’

1.1 Ideology and words

The terminology used to describe the involvement of the private sector in public services has become complicated over the last 20 years. Ideology has been a crucial factor in these linguistic developments.

In the early 1980s the Thatcher government in the UK embarked on a political strategy to restructure the private sector, in which privatisation was seen as a positive radical development. The term ‘privatisation’ was used to cover all forms of private involvement, from the sale of national industries to the simple sub-contracting or outsourcing of functions such as refuse collection or office cleaning. In other EU countries, where sub-contracting co-existed with direct public provision, these contracts were not seen as part of the ideological development of privatisation, and so have not usually been described as ‘privatisation’.

In CEE countries, as the former centralised state apparatus was broken up, ‘privatisation’ was used to refer to any action which removed a function from the control of central government, including the re-allocation of responsibilities, such as water, to local authorities. The political importance of this decentralisation ignored the need to distinguish this act of municipalisation from the further act of delegating such functions to private sector companies.

As privatisation became politically controversial, even in the UK, new terms were introduced. ‘Public-private partnership’, abbreviated as PPP, was created to present the same forms of involvement of the private sector as more a collaborative, technical exercise rather than an aggressive transformation of relations. A similar term, ‘private sector participation’ (PSP) has also been widely used, especially by the World Bank and others in the context of developing countries. In both cases, the term is not a legal or technically exact phrase, but rather a replacement for the old general Thatcherite use of the word ‘privatisation’. The vast majority of PPPs, for example, are not partnerships in any legal sense, but simply contractual relationships.

Other terminology does have more technical origins, and therefore specific meanings. The oldest of these is ‘concession’, which has broadly the same meaning everywhere, of a public authority assigning to a private company the right to exploit a monopoly service by charging users, usually through making investments at its own risk (“*à ses risques et perils*”). More recent acronyms such as PFI and BOT (see below) also have quite precise meanings. All of these however, and more, are also covered by the vague general terms of PPP and PSP.

The different words, and the different perceptions of them, have made a common understanding more difficult. It is more helpful to re-focus on the concrete relationships and issues involved.

1.2 EU: no formal definition of PPP

The EU does not have any formal definition of a PPP. The procurement directives governing works, supply and service contracts explicitly address contracts which provide for a service to be provided, or a construction contract to be carried out, but public service concessions (on the French model of delegated management) have so far been excluded from their coverage.

2 Different types of PPPs

2.1 Four elements

In terms of getting an overview and an international comparison, it is useful to divide the elements that can make up a PPP scheme into four parts: Construction, Operation, Finance and Ownership (see Table 1 below).

Outsourcing of services just involves a contract to operate a specific service, e.g. refuse collection, without any construction or financing of a capital investment. Under UK PFI schemes (private finance initiative) a private company designs and builds specific investments on the basis of finance provided by it, and recoups the money by a contract to provide services for a period of years, usually decades, while the asset itself

remains owned by the public sector. Concessions e.g. in water are similar, but the finance is recouped through charges to the users. With leases (affermage in French) the company does not make its own investments but operates and maintains the system for the municipality, financed by charging users. Under BOT schemes (build, operate, transfer.), the investment asset is built and owned by the company for the period of operation, and later transferred to the public sector.

Concessions and PFI are described in more detail below.

These different forms of PPPs all affect the structure of public services, but also concern trade unions because the common element of private operation of services affects jobs and conditions of workers. This restructuring of their employment relationship is often a key element in generating savings to make the financial mechanism worthwhile.

Table 1: Elements of different PPP schemes

		Out-sourcing	PFI	Concession	Lease	BOT
Operation	Operation of service	X	X	X	X	X
Finance	Capital investment financed by private operator		X	X		X
	Recouped by user charges			X	X	
	Recouped by contract from municipality	X	X			X
Construction	Construction of asset by private company		X	X		X
Ownership	public during and after contract	X	X	X	X	
	private during contract, public after			X		X
	Private indefinitely					

2.2 Other variations

There are a range of other terms used to describe variations of the BOT, PFI concession type of PPPs. These include:

◆ **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

◆ **DB Design and Build**

A contract where a single supplier is responsible for designing and constructing a built asset.

◆ **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.

◆ O&M Operation and Maintenance Contract

These projects involve the private sector operating a publicly-owned facility under contract with the Government.

◆ 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.

◆ 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

◆ 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..

2.3 Other non-contractual privatisation terms

Other terminology relates to forms of involvement of the private sector which are not based on contracts. 'Liberalisation' of a sector changes the structure in such a way that private companies can enter and compete as they wish, without being contracted to do so. The various forms of sale of public companies similarly involve transfer of ownership, but may not be attached to any subsequent contract (though they may be subject to statutory obligations to provide services). Joint ventures between municipalities and private companies, usually created by the sale of part of the shares in an organization, may also sometimes be given a contract e.g. in the form of a concession.

Liberalisation	Refers to the opening of a sector to competition. This usually takes the form of the break-up of public sector monopolies and the subsequent opening-up of markets. Used at EC level in industries e.g. Energy, also national level initiatives
Asset sale	Selling all or part of a public company
IPO	Initial Public Offering - the first sale of shares in a company to the public
Trade sale	Where a state asset is sold to a private company without a public share offering.
Joint venture	A company partly-owned by a municipality and partly by a private company.

2.4 Beyond definitions: a continuum of cases

Attempts at defining terms invariably fail to capture the full range of the possible ways of involving the private sector in the provision of public services. The table below illustrates some of the different options available in the involvement of the private sector in one public service - hospitals.

Option	Private sector responsibility	Public sector responsibility
Co-location of private wing within or beside public hospital	Operates private wing (for private patients). May provide only accommodation services or clinical services as well.	Manages public hospital for public patients and contracts with private wing for sharing joint costs, staff, and equipment.
Outsourcing nonclinical support services	Provides nonclinical services (cleaning, catering, laundry, security, building maintenance) and employs staff for these services.	Provides all clinical services (and staff) and hospital management.

Option	Private sector responsibility	Public sector responsibility
Outsourcing clinical support services	Provides clinical support services such as radiology and laboratory services.	Manages hospital and provides clinical services.
Outsourcing specialized clinical services	Provides specialized clinical services (such as lithotripsy) or routine procedures (cataract removal).	Manages hospital and provides most clinical services.
Private management of public hospital	Manages public hospital under contract with government or public insurance fund and provides clinical and nonclinical services. May employ all staff. May also be responsible for new capital investment, depending on terms of contract.	Contracts with private firm for provision of public hospital services, pays private operator for services provided, and monitors and regulates services and contract compliance.
Private financing, construction, and leaseback of new public hospital	Finances, constructs, and owns new public hospital and leases it back to government.	Manages hospital and makes phased lease payments to private developer.
Private financing, construction, and operation of new public hospital	Finances, constructs, and operates new public hospital and provides nonclinical or clinical services, or both.	Reimburses operator annually for capital costs and recurrent costs for services provided.
Sale of public hospital as going concern	Purchases facility and continues to operate it as public hospital under contract.	Pays operator for clinical services and monitors and regulates services and contract compliance.
Sale of public hospital for alternative use	Purchases facility and converts it for alternative use, depending on sales agreement.	Monitors conversion to ensure adherence to contractual obligations.

Source: Taylor and Blair 2002

3 French and UK models

Most PPP proposals in Europe are referred to either the French model of delegated management, or the current UK model of PFI. Brief accounts are set out below.

3.1 The French model: concessions and delegated management

In France there is a long-standing use of concessions and leases for certain public services, notably water. The generic term is “delegated management” (*gestion déléguée*), which 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 (Adhémar P and Dumont J-L).

In theory, there are three main variants of concession (Hall):

- 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 involved 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.

3.2 UK PFI model

The Private Finance Initiative (PFI) was introduced by the UK Conservative government in 1992. It has been maintained by the new Labour government since 1997.

PFI projects are usually long-term contracts for services that include the finance and construction of associated facilities or properties. Under the contract, the private sector entity will have responsibility for financing and constructing the building or facility and maintaining and servicing it throughout the contract term. It is used mainly for the construction of new buildings such as hospitals, prisons, or waste disposal plants, but also for software systems – the UK’s national insurance system is being redesigned under a PFI contract with Accenture (formerly Arthur Andersen).

The private sector finances the project and receives a regular payment over the lifetime of the contract. The actual contract may not be to provide the main service – in the case of hospitals and schools, for example, the contracts concern ‘building services’ such as cleaning, maintenance, catering etc, while the medical and nursing services remain in the public sector.

One of the attractions for the UK Treasury is that under PFI, capital expenditure does not count as public expenditure (as this is incurred by the contractor), although the payments to the contractor do. This ‘off-balance-sheet’ financing reduces the government’s public expenditure totals today but increases future liabilities. The ownership of the asset may remain with the contractor at the end of the contract or pass to the public sector dependent on the terms of the contract.

PFI was described in a House of Commons Library Research Paper as:

“a form of public private partnership (PPP) that marries a public procurement programme, where the public sector purchases capital items from the private sector, to an extension of contracting-out, where public services are contracted from the private sector. PFI differs from privatisation in that the public sector retains a substantial role in PFI projects, either as the main purchaser of services or as an essential enabler of the project. It differs from contracting out in that the private sector provides the capital asset as well as the services. The PFI differs from other PPPs in that the private sector contractor also arranges finance for the project.”

4 International Usage

With few exceptions, English abbreviations such as BOT are used internationally, sometimes accompanied by a literal translation. Thus these terms are recognisable in many languages, and the concepts described are

usually close to English usage. The following sections identify some terms used in other European languages.

4.1.1 DEUTSCH

BLT (Build, Lease, Transfer)	BLT: bauen, leasen, transferieren
BOT (Build, Operate, Transfer)	BOT: bauen, betreiben, transferieren In German terms, a hire-purchase with integrated design, operation and maintenance services.
BOO (Build, Own, Operate)	BOO: bauen, besitzen, betreiben
BOOT (Build, Own, Operate, Transfer)	BOOT: bauen, besitzen, betreiben, transferieren
concession contract	Konzessionsvertrag
contracting-out contracts	Contracting-Verträge
DBFO (Design, Build, Finance, Operate)	DBFO: planen, bauen, finanzieren, betreiben
DBOT (Design, Build, Operate, Transfer)	DBOT: planen, bauen, betreiben, transferieren
joint venture	Kooperationsmodell
Facility Management	Facility Management
Leasing	Leasing; Verpachtung
Maintenance	Wartung
Management Contracts	Managementverträge/Betriebsführungsverträge
(private operator models, eg BOT)	Betreibermodelle
(private operator models, eg BOT, specifically in the transport sector)	Mautmodelle
hire-purchase (private operator models that specifically end with transfer, eg BOT)	(unechter) Mietkaufvertrag
Public Private Partnerships (PPPs)	Public Private Partnerships (PPPs)
Public Sector Comparator (PSC)	Public Sector Comparator (PSC)
Service Contracts	Serviceverträge
Turnkey contract	Schlüsselfertiger Kauf

“It is of little use to try to summarise what a PPP is or should be. There is no binding definition, nor can one be found. And it is hardly helpful to fiddle around with unclear words of often anglophone origin. What is sensible or not must be determined on a case-by-case basis.”ⁱ

Sources:

Öffentlich-private Partnerschaften: Ein Weg auch für Deutschland?, Projektarbeitsgruppe „Public Private Partnerships“ der SPD-Bundestagsfraktion, dokumente Nr. 07/01, <http://www.spdfraktion.de/download/dokumente-2001-07.pdf> (accessed 17/02/03) [original source: Dr. Jörg Christen, Finanzministerium Rheinland-Pfalz]

Bank Gesellschaft Berlin (2000), “Public Private Partnership - Perspektiven im europäischen Markt”, http://www.bankgesellschaft.de/vowi/17_specials/ppp/ppp.pdf

4.1.2 FRANCAIS

BOT (Build, Operate, Transfer)	opération de type investissement-concession
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ⁱ “In der Tat hilft es wenig, Definitionen dessen zusammenzutragen, was eine PPP ist oder sein soll. Es gibt keine verbindliche Definition und sie kann auch nicht gefunden werden. Am allerwenigsten hilft es, mit ungeklärten Wortungetümen oft englischsprachiger Herkunft herumzuhantieren. “Im Einzelfall ist zu entscheiden, ob etwas sinnvoll ist oder nicht”, mahnt Norbert Portz, Referent beim Deutschen Städte- und Gemeindebund.” (http://www.wegweiser.de/_txt11b/11-b035.htm)

DBFO (Design, Build, Finance, Operate)	DBFO Design Build Finance Operate scheme
Concession	concession
Lease	affermage
management contract	Gerance
Public service concession/contract	Delegation
Joint venture	Société d'économie mixte (SEM)

4.1.3 NEDERLANDS

concession	concessie
DB (Design, Build)	DB: ontwerp en aanleg
DBM (Design, Build, Maintain)	DBM: ontwerp, bouw, onderhoud
DBFM (Design, Build, Finance, Maintain)	DBFM: ontwerp, bouw, financiering, onderhoud
Public Private Partnership (PPP)	Publiek-Private Samenwerking (PPS)
	Publiek Private Comparator (PPC) - a generic pre-comparison between public and private sector before invitation of bids for the more detailed PSC exercise
Public Sector Comparator (PSC)	Publieke Sector Comparator (PSC)
public-private joint venture	publiek-private joint venture; publiek-private ontwikkelingsmaatschappij

Sources:

Kenniscentrum PPS, Netherlands Ministry of Finance; <http://kenniscentrumpps.econom-i.com> (accessed 13/02/03)

4.1.4 OTHER

BOT		
	<u>Danish</u>	BOT opførelse, drift og overdragelse
	<u>Greek</u>	BOT κατασκευή, εκμετάλλευση, εξόνηση
	<u>Italian</u>	BOT Build, Operate, Transfer
	<u>Portuguese</u>	BOT Construir, Explorar, Transferir