

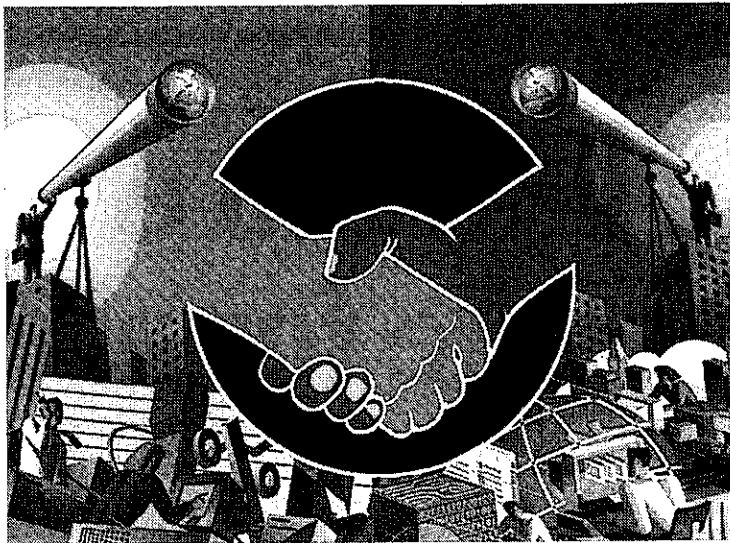
States need a formal PPP framework

A clear policy framework is crucial for mainstreaming PPP programmes to make them acceptable across various arms of the government, says **Gitika Kapoor & Rajan Kapoor**

GOVERNMENTS the world over are increasingly encouraging public-private partnerships (PPPs) to provide infrastructure services that were once exclusively delivered by the public sector. Various multilateral development agencies have emphasised the criticality of a robust framework for the PPP initiative. Formulating a policy framework that goes on to create an enabling environment while establishing transparent management, financial, and administrative mechanisms is crucial in removing ambiguities and uncertainties about the government's intention regarding the PPP initiative. A clear policy framework is crucial for mainstreaming PPP programmes to make them acceptable across various arms of the government.

States attempting to formulate a formal framework for PPP initiatives face many initial challenges. To begin with, there is the issue of instrumentality. Should the PPP initiative be supported by a policy, framework or should it be supported by specific laws? Orissa and Karnataka have formulated policy frameworks while Gujarat, Punjab and Bihar have enacted laws. One of the purposes of the formal framework is to provide guidance to government authorities on the development, implementation and management of PPP projects. As these projects are procured, constructed and operated, the market for PPPs will develop, and the experience gained by authorities and the private sector can be used to extend and improve the framework. In this context, the flexibility for the framework to evolve over time is desirable so as to reflect the specific requirements of PPP projects. So a policy framework would be the preferred option. In any case, promulgating an Act is a long-drawn exercise, in contrast to a policy declaration.

Multilateral agencies have advocated creating within governments a dedicated PPP unit as a means of developing domain knowledge for PPP initiatives and to pool the PPP expertise in the public sector. In its most elementary form, the PPP unit may be a small formation within a government



ALANKAR

department, as in Rajasthan and Orissa. In Gujarat and Punjab, these are established, under the provisions of special legal instruments, as autonomous entities. In some states these units have a very strong role and wide range of functions from project development to project approval (as in Gujarat); in other states they have only an advisory role with limited functions.

The administrative status of the PPP unit needs to be defined with a strong advisory role and mandated functions. The authority to approve PPP projects may also be vested in this entity. Alternatively, an institutional arrangement with authority to approve PPP projects may be created, should the government deem it fit to separate advisory and approving roles.

Further, an institutional arrangement is required for approving PPP projects and ensuring coordination amongst concerned agencies within the government, involved in steering PPP projects. The institutional arrangement must be supported by lucid definitions, responsibilities and timeframe for various tasks and processes by which PPP projects are approved and procured by governments. A two-tier in-

stitutional arrangement with the upper tier for approving PPP projects exceeding a threshold limit of investment is a practical proposition. Since political will is crucial if not essential for PPP initiatives, Orissa, Karnataka and Punjab have decision-making entities under the chairmanship of the chief minister for big-ticket projects.

ONE of the purposes of the PPP scheme is to leverage public funds through private participation. This necessitates dedicated sources of public fund for infrastructure development under the PPP modality. Also, the PPP modality requires project development support entailing engagement of transaction advisors/consultants to undertake formulation of the project, financial modelling, assessing market appetite for the project, drafting procurement documents, steering through the bidding process, etc. The formation of an infrastructure development fund as a dedicated source of public funding for both project development and infrastructure development under the PPP modality is a desirable option. Regular and identifiable sources for fund

must be made explicit.

The states must endeavour to lessen the level of ambiguity surrounding PPP project covenants to enhance investor confidence. Establishment of a regulatory authority to advise the government in formulating guidelines relating to tariffs, conduct of public hearing regarding approval of PPP projects, regulating the working of PPP projects, and adjudicating disputes is a prerequisite for a sustainable PPP programme. Punjab has proposed the setting up of a regulatory authority in the Act enacted by it. Bihar has proposed a Conciliation Board. The regulatory authority must wield sufficient clout and have teeth.

Karnataka has made a provision in its policy that, as far as possible, for all new investments in infrastructure, the option of implementing the project first through PPP would be considered. The provision for such a "PPP amenability test" deserves consideration to optimally leverage public funds through private participation. Certain exceptions could be made for projects in backward areas or projects with high social relevance.

The policy framework must be explicit in enumerating incentives and concessions. Such incentives and concessions could be extended in the form of asset-based support, facilitation support, foregone revenue streams, contingent guarantees and financial support. The extent and type of incentives and concessions must neither appear like a "sell-off" by the government nor should they be too marginal and embedded with rigid procedural requirements.

Addressing these initial challenges will smoothen the process for formulating a robust formal PPP framework by state governments. The formal framework for the PPP initiative is to be treated as a dynamic mechanism. As PPP projects are procured, constructed and operated, the framework will evolve to reflect the specific requirements of the government for PPP projects.

(G Kapoor is dean (management), University of Rajasthan, and R Kapoor is ADB retained consultant. Views are personal.)