STRENGTHEN FEDERALISM:
Establish a National PPP Unit to Support Bottom-Up Infrastructure Investment

Robert Puentes

Summary
In a time of constrained public budgets, leveraging private-sector financial resources and expertise to deliver a range of infrastructure projects has growing appeal. However, these public/private partnerships (PPPs) often entail complicated contracts that differ significantly from project to project and from place to place. To address this problem, countries, states, and provinces around the world have created specialized institutional entities—called PPP units—to fulfill different functions such as quality control, policy formulation, and technical advice. The federal government should establish a dedicated PPP unit to tackle bottlenecks in the PPP process, protect the public interest, and provide technical assistance to states and other public entities that cannot develop the internal capacity necessary to deal with the projects themselves.

Background
The Great Recession unveiled an American economy dangerously out-of-whack, with its pronounced emphasis on consumption rather than production-oriented economic activity. During the sluggish recovery that has followed, national, state, and metropolitan leaders in the public and private sectors continue to push for investments in infrastructure to put Americans back to work and rebalance the economy. The challenge is that the nation's economic recession and tense new focus on austerity means public resources for infrastructure are strained. As financial markets have contracted, all actors are suffering under tightened credit supplies. Stretched budgets at all levels of government have led to a larger gap between infrastructure costs and revenues. As a result, meeting the nation's great needs for funding and financing infrastructure requires an "all of the above" strategy.

One approach is to use contractual agreements between governments at all levels and the private sector to design, build, operate, maintain, and/or finance infrastructure. Whether repairing, upgrading, or augmenting an existing asset or constructing new infrastructure, the intent is to leverage private sector financial resources and expertise, improve project delivery, and better share responsibilities and costs between the public and private sectors. The evidence from other countries—including some with less friendly business environments than in the U.S.—shows that these arrangements, if designed and implemented correctly, have the potential to improve on infrastructure delivery.

However, public/private partnerships (PPPs) are complicated contractual arrangements that can vary widely from project to project and from place to place. As the challenges to infrastructure development throughout the U.S. become more complex, there is a constant concern in the U.S. that public entities in some states, cities, and metropolitan areas are ill-equipped to consider such deals and fully protect the public interest.

There are numerous ways to classify PPPs, but the most important from a public policy perspective is based on the sharing of responsibilities and risks. At one end of the continuum, the simplest form of a transportation PPP project, for example, involves contracting out individual operations, such as design, paving, or maintenance. On the other end, the private sector would build, own, and operate a new piece of infrastructure, with the government perhaps providing tax-exempt status for the project but no direct funding. In reality, there is a plethora of combinations of PPPs that mix different elements and transfer different types of risk to the private sector.

Traditionally in the U.S., a public entity in transportation (e.g., a state government, a local government, or a transit agency) decides upon, plans, and finances the construction of a new piece of infrastructure and ultimately maintains and operates it. Different private entities (e.g., an engineering firm and a private contractor) bid for the individual tasks of designing and later actually constructing the project.

These arrangements could contribute to how U.S. states and metropolitan areas pursue infrastructure investments in the United States because they represent a sharing of responsibilities and costs between the public and private sector in project finance and delivery. Yet they face substantial challenges when it comes to execution.

The Problem

By any measure, the United States is a laggard in terms of PPP projects. Between 1985 and 2011, there were 377 transportation PPP infrastructure projects funded in the U.S. Those projects comprised just 9 percent of the total nominal costs of infrastructure PPPs around the world. Europe leads the infrastructure PPP market, concentrating more than 45 percent of the nominal value of all PPPs.

There appear to be several discrete, but related, reasons why the U.S. has been slow to pursue PPPs in comparison with European and Asian countries:

- In some cases, there is a **lack of consensus, institutional capacity, and expertise** to properly promote the benefits and costs of PPP deals. In Pittsburgh, for example, an arrangement to lease the city's parking operations to a private entity collapsed when the city council voted against the transaction

- **Deals are getting more complex, politically heated, and cumbersome** as some stretch across jurisdictions and even international borders, as is the case with the New International Trade Crossing intended to connect Detroit to Windsor, Ontario

- With state and municipal finances under strain, **the public sector is trying to transfer greater responsibility to the private sector**, including in the arena of project financing

In this regard, the U.S. Government Accountability Office recently noted that while the U.S. has done much to promote the benefits of PPPs, it needs to do more to assist states and metro areas in thinking through potential costs and trade-offs, as well as assessing national interests.

At the federal level, the Federal Highway Administration's Office of Innovative Program Delivery (IPD) provides case studies and best practices, as well as helps public project sponsors evaluate various financing alternatives, including PPPs. IPD is in the process of creating a Surface Transportation Finance Center that will provide technical assistance for project sponsors that lack a clear approach to the funding and financing of a project. While it will continue to include PPPs as a financing option, the

Center will not be a dedicated PPP unit and will focus only on transportation projects. In addition, the recently enacted Moving Ahead for Progress in the 21st Century Act (MAP-21, P.L. 112-141) authorizes the U.S. Department of Transportation to provide best practices, technical assistance, and model contracts for states interested in a PPP delivery model.

Proposal

A possible solution is the creation of a specialized institutional entity to assist with the expanding opportunities for PPPs. These so-called "PPP units" fulfill a variety of functions, including quality control, policy formulation and coordination, technical advice, standardization and dissemination, and promotion of PPPs.

Therefore, the Metropolitan Policy Program at Brookings recommends **the creation of a national PPP unit to provide public and private actors with dedicated support for integrating PPPs in the national infrastructure agenda.**

Creating a federal PPP unit would:

- **Provide states, cities, and metropolitan actors with the support and technical assistance needed from the procurement stage through long-term management of the projects** by helping public actors determine the best Value for Money investment, assess long-term economic benefits of projects, and increase capacity to deal with contract changes over the life of the PPP

- **Create a more attractive, open, and robust environment that encourages private investment** by creating predictability in the procurement process and demonstrating that the government actors involved want to "do business"

- **Serve as the first step in creating an integrated national infrastructure agenda,** given that PPPs are integral to the overall capital investment and infrastructure strategy of the nation. Establishing a more uniform PPP process across all 50 U.S. states necessitates creating a broad strategy for national infrastructure development in the future

Looking around the world, PPP units are often located in a central government ministry (such as the Treasury Department) or in a line ministry that is closely related to infrastructure policy (such as the Department of Transportation). In the U.S., the Office of Management and Budget (OMB) is the most appropriate agency to house a PPP unit. It is cross-cutting and not focused on a single investment category such as transportation, though IPD should be a key player in the interagency working group.

Budget Implications

Budget costs for a federal PPP unit should be no more that $3 million annually. The PPP unit will be roughly the size of the Council on Environmental Quality (CEQ), located within the Executive Office of the President, which has a similar annual budget that covers support and administrative staff, as well as salaries and office and communications expenses.

State of Play

A dedicated federal PPP unit is a mechanism to build capacity to develop and implement PPPs. Countries and states around the world with well-developed PPP markets have built such units to help with quality control, technical assistance, standardization, promotion, and policy guidance. The U.S. is a latecomer in the area of PPPs, but states have been very active in the last three years both in building capacity and in closing PPP deals. The federal government can provide considerable assistance to those states, cities, metropolitan areas, and private sector entities that need and request it.

There is no one-size-fits-all design of a PPP unit, but U.S. public entities could learn from experiences of other countries and from the growing track record in several U.S. states. A PPP unit reflects not only the needs of a particular PPP program, but also the administrative capacity and political structure of a specific government. Ultimately, the success of an American PPP unit will depend on a clear and consistent national plan and strategy for infrastructure development.

Implementation Requirements

There are several approaches that could be used to create a national PPP unit. Establishing a PPP unit in OMB could be effected through an executive order. Alternatively, scaling up the capacity of IPD to offer dedicated PPP management and procurement technical assistance through the emerging IPD Surface Transportation Project Finance Center could be done without legislative approval. Staff from other departments like Transportation, Energy, Interior, and the Environmental Protection Agency could be detailed to the broad PPP Unit to keep costs down, build on existing expertise, and encourage greater coordination among departments. Along similar lines, the U.S. Department of Transportation (DOT) could create a dedicated unit outside of IPD to handle requests from states that do not have the capacity to deal with PPP evaluation and management.

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