



**MOSELEY  
INFRASTRUCTURE  
ADVISORY SERVICES**

# **New Approaches to Infrastructure Development: Public- Private Partnerships (PPP) 2.0**

**8<sup>th</sup> Istanbul PPP Week  
6 March 2024**

**Mark M. Moseley  
Principal, MMM Infra  
[Mark.Moseley@MMMInfra.com](mailto:Mark.Moseley@MMMInfra.com)**

# Outline of the Presentation



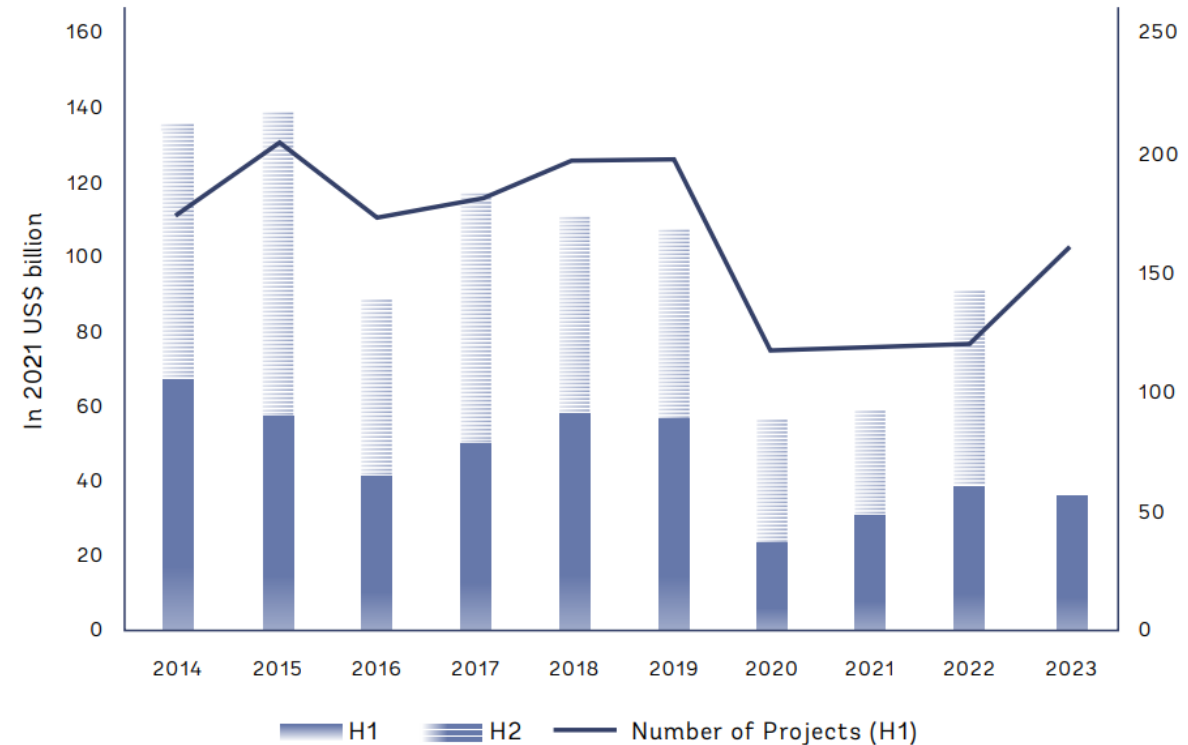
## Four main topics

- I. Why Do We Need PPP 2.0**
- II. The Key Characteristics of PPP 2.0**
- III. Possible Options**
- IV. Concluding Observations**

# I. Why Do We Need PPP 2.0

The number and size of PPP projects continues to be disappointing, particularly in Emerging Markets and Developing Economies (EMDE)

**Figure 1.** Investment Commitments in Infrastructure Projects with Private Participation in Low and Mid-Income Countries, 2014–H1 2023



\* **World Bank *Private Participation in Infrastructure (PPI) Half Year (H1) Update 2023***, available at

<https://ppi.worldbank.org/content/dam/PPI/documents/PPI-Half-Year-H1-Update-2023.pdf>

MOSELEY INFRASTRUCTURE ADVISORY SERVICES

## I. Why Do We Need PPP 2.0 (cont.)

**The World Bank's  
*Private Participation  
in Infrastructure  
(PPI) Half Year (H1)  
Update 2023* reveals  
what are, at best,  
mixed results**

- **investment commitments declined by 7%** compared to the same period in 2022, totaling \$36.4 billion in 44 countries
- while some regions witnessed growth in Private Participation in Infrastructure (PPI) investments, **the South Asian Region (SAR) and the Latin American and Caribbean Region (LAC) suffered drops in such investments**
- **investment commitments in International Development Association (IDA) countries** for the first half of 2023 stood at US\$2.5 billion, spread across 26 projects in 17 countries – **this is marginally less than the US\$2.6 billion committed across 14 projects in 12 countries for the same period in 2022**

## I. Why Do We Need PPP 2.0 (cont.)

**Even in countries with a strong tradition of successful PPPs – such as Canada – the PPP model is being questioned, by both the public sector and the private sector**

***At the turn of the 2020s, the narrative on PPPs shifted, along with public sentiment and project delivery practice. ...***

***Institutionally within government, the overwhelming preference for PPPs faded...***

***As governments sought to transfer significant construction cost risks to the private sector to achieve on time and on budget performance, these risks began materializing and becoming more costly than some firms could bear. ...***

***Receiving sufficient competition for PPP project calls for proposals became increasingly difficult, as fewer firms had the appetite or the financial ability to bid for the largest and most complex projects.\****

***\* University of Toronto 2023, [Public-Private Partnerships: Is a reassessment underway?](https://on360.ca/policy-papers/public-private-partnerships-is-a-reassessment-underway/#_edn30), available at [https://on360.ca/policy-papers/public-private-partnerships-is-a-reassessment-underway/#\\_edn30](https://on360.ca/policy-papers/public-private-partnerships-is-a-reassessment-underway/#_edn30)***

## I. Why Do We Need PPP 2.0 (cont.)

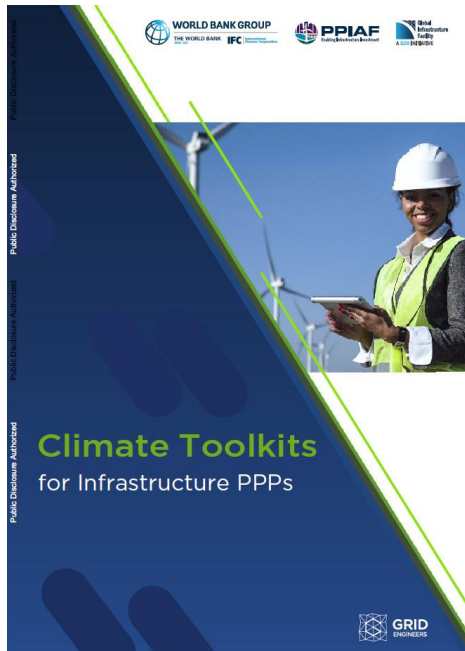
Part of the problem is the perception that long-term PPP contracts are **inflexible**

***PPP project agreements are long-term, complicated and comparatively inflexible because of impossibility to envisage and evaluate all particular events that could influence the future activity***

\* Ministry of Finance of Lithuania 2023, *PPP Advantages and Disadvantages*, available at <https://finmin.lrv.lt/en/competence-areas/public-and-private-partnership-ppp/ppp-advantages-and-disadvantages/>

## I. Why Do We Need PPP 2.0 (cont.)

**A key point:** There is an urgent need to address this issue, given that **the PPPs we will need to deal with climate change must cope with uncertainty**



### **Dealing with climate uncertainty**

*One of the major challenges in structuring PPPs and designing projects for climate change is our inability to predict the actual evolution of climate stressors. Decision-makers will often find themselves swinging between the lower-cost optimistic scenarios and their costlier, higher-risk counterparts, which call for adopting more adverse climatic projections. ...*

### **The need for contract flexibility to accommodate uncertainty**

*Unavoidably, inclusion of uncertainty and adaptive planning into the equation will negatively impact the long-term visibility required by investors. ...\**

\*World Bank Group 2022, *High-level Climate Toolkit*, available at <https://www.worldbank.org/en/topic/sustainableinfrastructurefinance/brief/climate-toolkits-for-infrastructure-ppps>

## II. The Key Characteristics of PPP 2.0

PPP 2.0 Contracts will need to be more **collaborative**

- a greater emphasis on **risk sharing**, as opposed to risk allocation
- a less adversarial approach to **dispute resolution**
- a more systematic approach to **renegotiations**
- a stronger commitment to **partnership**



### III. Possible Options

There is a wide range of alternative models – we will briefly look at four options

- **Refining the Existing PPP Model**
- **Institutional Public-Private Partnerships**
- **Progressive Design-Build**
- **Alliance Contracting**

### III. Possible Options – Refining the Existing PPP Model

One option would be to make **targeted adjustments** to conventional PPP contracts

- **risk sharing: e.g., adjustments allowed for **cost increases in construction materials****
- **dispute resolution: use of **Dispute Resolution Boards****
- **renegotiations: use of **an expert panel to approve renegotiations** designed to address unforeseen risks**

### III. Possible Options – Institutional PPPs

Various jurisdictions have experimented with arrangements whereby the Government Contracting Authority (GCA) is a **minority shareholder in the PPP Project Company**

- the **Wales** Mutual Investment Model (MEM)\*
- **France**'s Société d'économie mixte à opération unique (SEMOP)
- **Italy**'s *Sperimentazioni Gestionali* legislation

\* See Government of Wales 2024, *Mutual Investment Model*, available at <https://www.gov.wales/mutual-investment-model-infrastructure-investment>

### III. Possible Options – Progressive Design-Build

In a Progressive Design-Build project, the GCA selects a qualified design-build contractor and ‘progresses’ the design of the project towards a proposal that meets the GCA’s needs

- the design-builder is retained by the Government Contracting Authority early in the life of the project – in some cases, before the design has been developed
- the design-builder is generally selected primarily on the basis of qualifications, and the design-builder’s final project cost/price and schedule commitment is not established as part of the selection process
- the design-builder delivers the project in two distinct phases, with (i) Phase One including budget level design development, preconstruction services and the negotiation of a firm contract price; and (ii) Phase Two including final design, construction and commissioning\*

\* See Design-Build Institute of America 2018, *Progressive Design-Build*, available at <https://dbia.org/wp-content/uploads/2018/05/Primer-Progressive-Design-Build.pdf>

### III. Possible Options – Alliance Contracting

In the Alliance Contracting model, the Government Contracting Authority and the contractor form a joint organization to plan and deliver the project collaboratively

- key principles to drive collaboration in Alliance Contracting include:
  - sharing information with an ‘open book premise’
  - collective decision making
  - apportioning risk and reward on a ‘pain share/gain share’ basis to align interests
  - prohibiting legal actions between the parties other than under specific circumstances
- Alliancing is a slower and more labour-intensive model of contracting, that is intended to deliver improved results through the fostering of meaningful collaborations\*

\* See CMS LLP and Arcadis 2019, *Guide to Contract Alliancing in Construction*, available at <https://cms.law/en/media/international/files/publications/guides/cms-guide-to-contract-alliancing-in-construction>

## IV. Concluding Observations

### Key 'takeaway' points

- in order to meet the UN Sustainable Development Goals and close the 'infrastructure gap', **we need to find new approaches to attracting private sector investment in infrastructure: PPP 2.0**
- **more collaborative and flexible PPP contracts are urgently needed to deal with the uncertainties associated with climate-smart infrastructure**
- **various countries are experimenting with different models, ranging from targeted modifications to 'conventional' PPPs, through to entirely different forms of contracting, such as Alliancing**



**MOSELEY  
INFRASTRUCTURE  
ADVISORY SERVICES**

# **New Approaches to Infrastructure Development: Public- Private Partnerships (PPP) 2.0**

**8<sup>th</sup> Istanbul PPP Week  
6 March 2024**

**Mark M. Moseley  
Principal, MMM Infra  
[Mark.Moseley@MMMInfra.com](mailto:Mark.Moseley@MMMInfra.com)**