



## Mohammed Bin Rashid School Of Government

# POLICY BRIEF

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### Summary

How can Dubai best prepare itself for the expected increase in the number of public-private partnerships (PPPs) in the coming years? What can it do to ensure that they are well designed and managed and that they provide value for money? One way to do this is to set up a PPP unit at the heart of government that can provide expert knowledge and guidance at every stage of the process. This conclusion is reached by a review of the literature relating to PPPs, including their oversight, management and development in other countries.

The main recommendation of this policy brief is the creation of a PPP unit within the Government of Dubai. Drawing on previous experiences and lessons from PPP units from around the world, the briefing highlights four factors that will need to be addressed if such a unit is to be successful. One, it must establish what its functions and roles should be. Two, it should recruit highly qualified individuals who can provide technical expertise and help train and prepare other government officials. Three, it should be located in the Government of Dubai where it can use Dubai's experience of PPPs to become the UAE's leading resource. Four, it would ideally be based in the Government of Dubai's Department of Finance to give it sufficient importance and to help coordinate PPP activities across ministries.

## Making the Case for a PPP Unit in Dubai

*Guy Burton*

### What is the state of PPPs in Dubai?

Public-private partnerships (PPPs) have a long history, but in their current form they largely date to the 1980s. They bring together the public sector with private interests in the form of a contractual relationship whereby the latter commits to providing and delivering a public good (usually) or service for the former. In exchange, the public entity allows the private partner to recover the costs of producing the good or service by operating it and generating revenue over a set period of time. In most cases, PPPs are long-term, lasting around 30 years.

Since the 1980s the appeal of PPPs has grown, initially in the global North, in countries like the US and Britain, and more recently in transition economies like Latin America and East Asia. For many governments in these countries, PPPs were attractive because it meant that they could manage growing demand for public services while limiting the cost of doing so to the public accounts. Private companies and investors, meanwhile, saw PPPs an opportunity to expand their commercial activities and tap into areas that they had not previously been a part of.

By contrast, the rise of PPPs in the Gulf has been slightly different when compared to elsewhere. Here, traditional procurement of public goods and services was more common, even until recently. But what has made PPPs of increased interest for governments in the Gulf is the opportunity it presents of acquiring new skills, expertise and knowledge, alongside access to sources of funding which are less tied to their oil-based economies (Knight 2016, Currie & Brown 2016, Graves 2016).



Dubai, along with Kuwait, has been at the forefront of the PPP process in the Gulf. The 2015 law and the 2016 guidance place it as one of the key governments to watch in the Middle East and North Africa (MENA) region when it comes to the introduction and delivery of PPP projects. However, if it is to ensure that the process is successful, it will require an active and sustained approach to ensure that PPPs are being designed and delivered effectively. Dubai's Department of Finance's (2016) guidance is a good start in that direction, since it draws on local and international experience of PPPs over time. But it is not enough as a document can only offer so much and remains silent in what is an ongoing and changing field.

If Dubai is to remain at the forefront of the PPP revolution, it needs access to knowledge and expertise that can take into account and review developments in the field. Where can it best find that? In short, a PPP unit.

Having passed a law to promote more uptake of PPPs in 2015 and published guidance towards that end in 2016, Dubai's leaders have shown themselves keen to see more private enterprise in the provision and delivery of public services. A PPP unit can help support this process by providing expertise knowledge and skills in relation to the policy and program design and development of PPPs, along with identifying their need, appropriateness, tendering, contracting, management, monitoring and evaluation. Having an institution which can provide such services will become

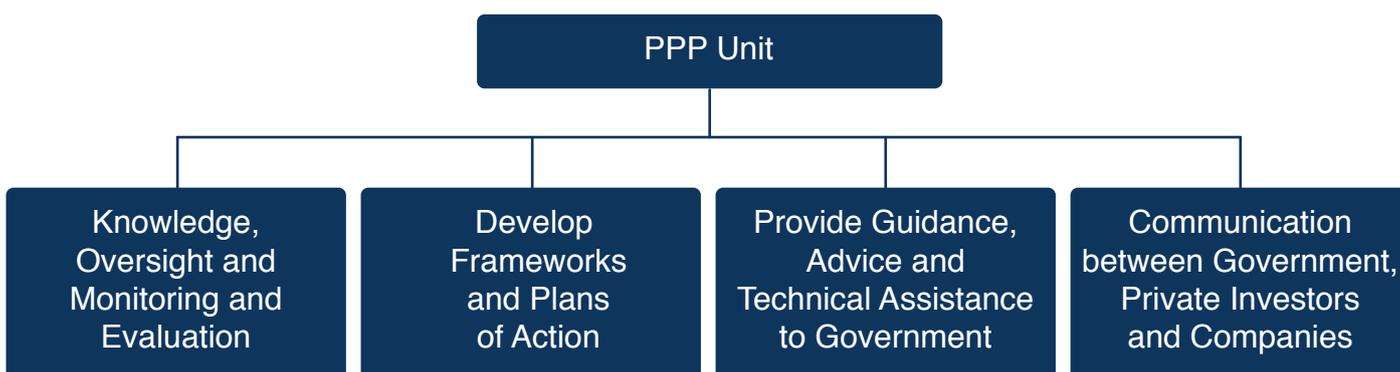
more pressing, especially if the number of PPP projects undertaken rises, as envisaged under the new law.

Establishing a PPP unit should be a key objective for decision makers concerned with PPPs in the UAE. But what should it look like and where should it be located? How should it be financed and who should work within it? These questions are considered in this policy brief, which suggests that a new PPP unit could be situated within the Government of Dubai's Department of Finance. In order to reach this point, the briefing is set out in four sections. The first looks at what PPP units are and what they do. The second then considers the experience of PPP units in other countries to date, including where they are situated within the government. The third then examines some of the lessons associated with these experiences. The final section points to the main insights from these experiences and accounts to suggest elements that should be included when developing Dubai's own PPP unit.

## The purpose of PPP units

There are a number of reasons that PPP units have been encouraged and established. Broadly there are three functions that they can cover: policy support, program and project delivery and approval and quality control (European PPP Expertise Centre 2014: 6). What this means specifically is set out below in Figure 1:

*Figure 1: Possible Roles for a PPP Unit*



First, a PPP Unit can provide knowledge and oversight of the PPP process, from its initial conception through to its set up, implementation and delivery of the final asset (Asian Development Bank et al 2016). Governments may not be full aware of the financial and non-financial costs within PPP projects, especially given the fact that they are long-term commitments which require ongoing monitoring and evaluation (Burger 2009).

Additionally, a PPP unit can serve as a knowledge centre and resource for PPPs, carrying out monitoring and evaluation of ongoing and completed PPP project. Such activity should arguably be done with the best interests of the public sector in mind, rather than that of the private actors and their interests (Asian Development Bank et al 2016). At the same time though, it is worth noting that PPP units tend to favor PPP projects and therefore can be less vigilant at reviewing or assessing potential risks and challenges (Irwin and Mokdad 2010: 39).

Second, they can contribute to the development of a PPP framework. This may include identifying government policies, suitable legislation as well as identifying which projects should be prioritized (Asian Development Bank et al 2016, World Bank et al 2017). This could include the production of a 'pipeline' of projects which can be established by central government or its individual departments.

Third, they can provide guidance, advice and technical support to government departments and officials who are charged with overseeing and managing PPP projects (Asian Development Bank et al 2016, World Bank et al 2017, Irwin and Mokdad 2010). This is especially relevant in situations where government activity with PPPs is uncoordinated; there is a danger that individual departments may pursue PPPs without taking into account the financial and non-financial costs associated with such projects and assume that central government will undertake

and absorb those costs (Burger 2009).

Fourth, they can provide a means of communication between government and prospective investors and private actors interested in PPP projects and processes (Asian Development Bank et al 2016). The existence of a PPP Unit can serve as a 'gatekeeper' for the government and make it easier for private actors by providing a one-stop shop for them to engage with officials on PPP issues (World Bank et al 2017, Irwin and Mokdad 2010).

## Jurisdiction and roles of PPP units in other countries

PPP Units have taken different forms and roles across the world and located in different parts of the government bureaucracy. A survey of OECD countries in 2010 indicated that slightly more than half of OECD member states had a PPP unit in some shape or form (OECD 2010). Where they are located in government has varied though. Indeed, an analysis of PPP units in developed and developing countries indicates that they have been based in different parts of the government, from the Financial Ministry/Department/Treasury, Planning Agency, Investment Promotion Agency, the (national) Development Bank or the Prime Minister's Office, with many of them being established within the last decade. Some examples of this are detailed below in Table 1 (Asian Development Bank et al 2016: 76-8).

Of those countries which have placed PPP Units in the Financial Ministry/Treasury, the UK, Australia, South Africa and New Zealand are notable examples. In the UK there is both the publicly owned Treasury Taskforce (which provides policy analysis and advice) and the Partnerships UK, which is jointly owned by the public and private sectors and which focuses on the delivery of PPP projects. In Australia PPP units are located at state rather than federal level, including in Victoria and New South Wales. In South Africa the PPP Unit moved within the Treasury and its focus

shifted, from controlling the PPP process to providing advisory and management support. In New Zealand the responsible unit is not only concerned with PPP projects, but advising on the best options for infrastructure investment.

In Colombia the PPP Unit is based within the National Planning Department rather than the Financial Ministry. Its role is to develop, implement and coordinate PPP policies and activities. In Uruguay there are two agencies that deal with PPPs: one, a state owned investment agency, offers guidance and advice to those department which implement PPPs, while another, based at the Ministry of Finance, examines the financial requirements and consequences of PPPs as well as monitoring their implementation. Peru and the Brazilian state of Sao Paulo also have PPP units located in their departments/agencies which promote investment.

Jamaica, Mexico and Puerto Rico have PPP units which are based in their Development Banks. These were set up within the past decade, although the Jamaican one had long antecedents, with its unit being responsible for privatization as well as PPPs and despite the establishment of a new PPP framework and stronger role for the Financial Ministry in 2011.

Finally, Bangladesh and Malaysia have PPP units based out of the Prime Minister's Office. Much of the work done by the units in both countries is directed towards coordination and tender of PPP initiatives and proposals across government. The Bangladeshi one also operates alongside another PPP unit within the Financial Ministry whose roles are focused primarily on financial issues.

Table 1: Location and role of PPP units in different countries

Location of PPP unit	Purpose of PPP unit	Countries
Financial Ministry	Policy analysis and advice	UK (Treasury Taskforce), Australia (Victoria and New South Wales states)
	Advice and management support	South Africa
	Evaluation of options	New Zealand
	Reviews financial requirements, impact and monitors implementation	Uruguay, Bangladesh
National Planning Department	Develop, implement and coordinate PPPs	Colombia
State Investment Agency	Policy guidance and advice to implementing departments	Uruguay
	Promote investments	Brazil (Sao Paulo state), Peru
Development Bank	Guidance, advice	Jamaica, Mexico, Puerto Rico
Prime Minister's Office	Coordination, tenders	Bangladesh, Malaysia
Jointly owned by public and private sectors	Delivery of PPPs	UK (Partnerships UK)

## Lessons from PPP units around the world

A number of insights have been gained through studies of PPP units. One is that although there was growing attention to the need for PPP units and many countries began to establish them during the 2000s, much of the early analysis focused on the individual experience of PPP units in a country rather than across different countries. At the same time, it was not clear at this stage what a successful PPP unit would look like, since the parameters of what constituted success and failure were largely unspecified (OECD 2010). This arguably, was in contrast to the PPP process itself, which for many governments, had a clear rationale: to provide value for money and to limit direct and upfront costs to governments for the acquisition and delivery of public assets.

If the experience of PPP units was more uncertain than the PPP process itself, that has begun to change over the past decade. Increasingly, attention has been given to PPP units across different countries and an effort to learn more from these cross-national experiences and to apply them in a comparative manner.

First, one of the main lessons is that problems may emerge if their roles are unclear. This may result in competition between them and other PPP units (if they exist) as well as other government agencies and departments (Asian Development Bank et al 2016). In the early part of the present decade there was debate about what role should a PPP unit play: whether in forming policy, providing technical support, approving PPP projects or in monitoring their implementation. In addition, it was not clear whether they should cover all PPP projects or only those that dealt with infrastructure (OECD 2010). More recently though, there is an acceptance of the wide range of tasks that a PPP unit can undertake, from managing a PPP project through to providing training opportunities charges with implementing them (International Council for Research and

Innovation in Building and Construction 2016). To achieve this requires a comprehensive analysis of requirements to design, deliver and accredit an efficient and effective PPP program (European PPP Expertise Centre 2014).

Second, the establishment of a PPP unit may not lead to coordination between different PPP projects and departments and agencies. This may occur if there are insufficient resources – both financial and human – to carry out adequate appraisals to identify, assess, monitor and evaluate PPP projects (Asian Development Bank et al 2016). In part this reflected uncertainty concerning both the extent and depth of funding and human resourcing of PPP units when they were first set up (OECD 2010).

Third, there is the key challenge of political will. Setting up a PPP unit is not sufficient. It is necessary that it not only plays an active role in all facets of the PPP process, but has the backing of key decision makers and managers in order to ensure that its work is effective (Asian Development Bank et al 2016: 78). A survey of PPP units across European countries has pointed to the fact that their presence only makes a difference if their actions directly tackle and overcome any weakness, obstacles or challenges in a polity's design, delivery and evaluation mechanism (European PPP Expertise Centre 2014: 6).

Fourth, if PPP projects are to ensure value for money – a key motivation for many governments pursuing such projects – then it is vital that governments and their PPP units comply with general standards of good governance. This has meant that more successful PPP units (as well as governments) have made use of transparency and accountability in their work (OECD 2010).

Fifth, governments tend not to establish a PPP unit at the beginning of the PPP process. They usually do so at a later stage, when they realize the need for one, to provide clarity, coordination, guidance, technical expertise and assessment of PPP projects (OECD 2010).

## Introducing a PPP unit in Dubai

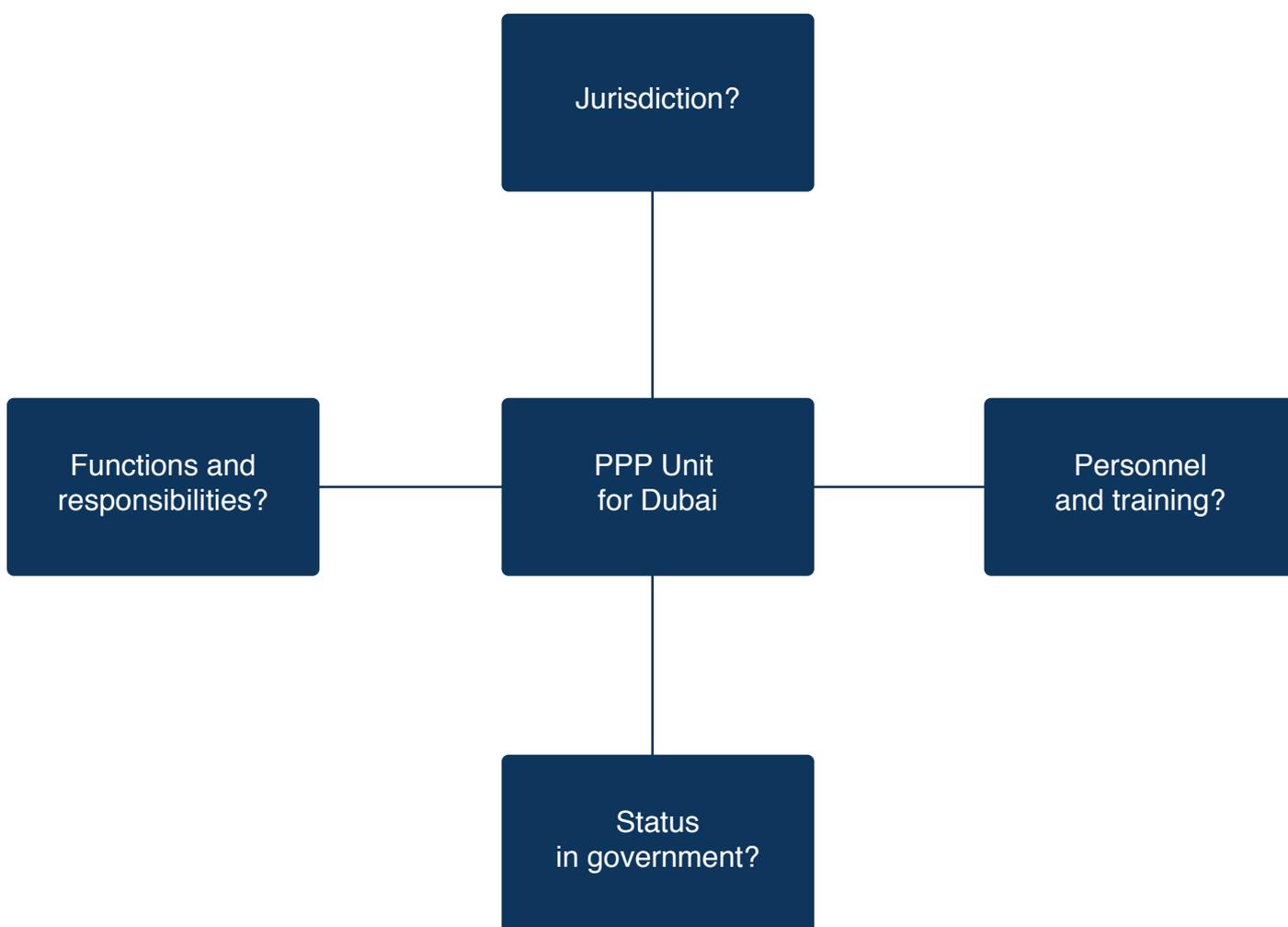
The Government of Dubai is at the forefront of a wider regional drive in the Gulf towards PPPs. A PPP unit would complement that effort, although for it to be successful the literature on PPP units suggests that the following issues should be addressed (see Figure 2). They include:

- Consultation on the PPP unit’s functions and responsibilities
- Recruitment of qualified staff and training opportunities
- Jurisdiction for a new PPP unit, whether locally in Dubai or at the federal level

- A clear and accepted role for the PPP unit as a key agency within the public administration

These concerns offer only a high-level consideration of what a proposed PPP unit might look like or undertake. It does not provide a comprehensive picture of its individual functions, responsibilities, its roles and activities. Much of that can only be the result of deliberation among decision makers within the Government and among relevant stakeholders. However, this process develops though, one key factor must be present though: political will. With it, the establishment and operation of the PPP unit will have sufficient support to achieve its goals – whatever they eventually are. Without it, the PPP unit will be a powerful entity in name only, with little capacity to deliver the objectives set for it.

Figure 2: Issues to be addressed for a PPP Unit in Dubai



## Consultation on functions and responsibilities

What should the proposed new PPP unit do? To answer that depends a great deal on what is asked of it. As the survey of literature on PPP units and their experience to date above has shown, there is not one single model that PPP units follow. Rather, for a PPP unit to be effective, it needs to take into account the context in which it operates. For that reason then, it is vital that the Government of Dubai begin a consultation exercise to determine how best a PPP unit can meet those needs.

Consultation with stakeholders will need to be undertaken, to establish whether the PPP unit should focus on policy development, providing support to program development and delivery and offering monitoring and evaluation services. It must decide whether it should limit its role or provide a wide range of services. The Government of Dubai may choose to do this with its partners in the UAE who are concerned with stimulating, managing and overseeing PPPs: the business and financial communities, its own ministries and other emirates and the federal government. While these actors are likely to be the most directly affected by the establishment of a PPP unit, the Government of Dubai could also consider a broader consultation, to include groups and communities whose situation may be affected by the introduction and development of PPP projects: for example, commuters, energy users, and recipients of public services provided by private actors.

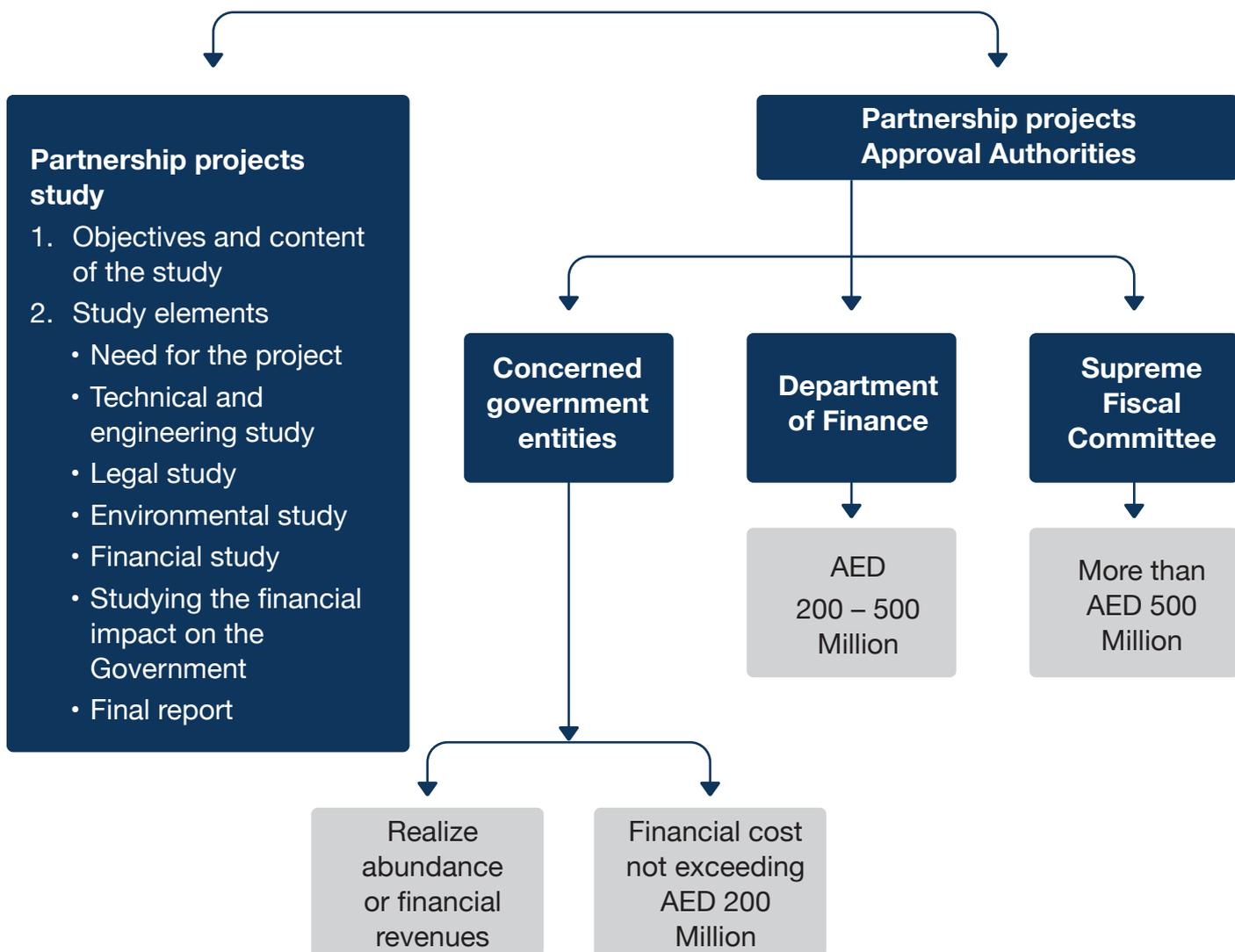
While these different actors are likely to have their own preferences and insights into how a PPP unit might look, it is the author's view that the proposed PPP unit should be as comprehensive in its objectives and scope as possible. This view is drawn less from a survey of relevant parties and more from a guidance provided by the Department of Finance following the 2015 PPP law (Department of Finance 2016). Although the bulk of PPPs in

Dubai have been developed under existing commercial law, the PPP law is extensive, setting out criteria for the identification, organization, stages of contracting, carrying out and managing a PPP project. Four main kinds of PPP are envisaged in the Government's guidance (Department of Finance 2016: 69), including:

- BOOT (i.e. the private partner builds, own, operates and then transfers the project to the Government at the end of the contract)
- BOT (the partner builds, operates and then transfers the project)
- BTO (the partner builds, transfers and then operates the project on a contractual basis)
- TO (the project is transferred to the partner who operates it during the contract period)

In terms of reaching an agreement between the Government and the private sector for a PPP project, the law allows proposals to come from either ministries themselves or businesses. For a project to receive approval a number of different studies are required as well as decisions being take at various levels, depending on the value of the proposed contract (by the relevant government entity if it is below AED200m, by the Department of Finance between AED200m and AED500m and by the Supreme Fiscal Committee for a proposed PPP project worth more than AED500m). This is set out in Figure 3 below:

**Figure 3:** Study requirements and approval process for PPP projects in Dubai



*Source: Department of Finance 2016: 117*

Given the different forms that a PPP project can take (i.e. BOOT, BOT, BTO, TO) and the various impacts that they can have in Dubai (i.e. environmental, economic, financial) it is perhaps best if a new PPP unit were to cover all stages of the PPP process. This would include proposing policy, designing frameworks, reviewing and advising on individual PPPs, approving or rejecting them,

providing expertise and developing officials' skills to manage them, and to monitor and evaluate their performance, outputs and outcomes.

It may be the case that in covering all these areas, that such activity is redundant, owing to the relative strength of individual ministries in terms of staff competence, skills and

knowledge. If that is the case then it would be easier for the PPP unit's functions and activities to be peeled back accordingly, to accommodate the relative capacities of different ministries. This might mean gradations in the level of assistance from the PPP unit, which could be fine tuned over time. Moreover, this approach of providing a comprehensive approach and pulling back where necessary would mean that all potential risks were sufficiently covered to begin with, instead of having to fill gaps in retrospectively (and, potentially, expensively).

### **High quality staff with good training opportunities**

As has been pointed out throughout this briefing, PPP units in different places have varied in terms of their functions and roles. This includes whether they provide policy guidance, set out the framework for PPPs, identify PPP projects and provide technical expertise – including organizing tenders, evaluating PPP proposals, monitoring their implementation and delivery. It also includes how they allocate their human resources and training for officials engaged in PPP activities in individual departments.

Given the broad expectations associated with the PPP process, it would seem that a greater (rather than smaller) number of functions and roles would be expected of a newly established PPP unit in Dubai or the UAE. This means that a wide range of individuals would need to be hired who may provide the relevant technical expertise and knowledge across a variety of different fields. Among those employed in the new PPP unit would need to be those with previous and direct experience of identifying, organizing and managing PPP projects from both public and private sectors.

In the medium- to long-term, the PPP unit's management should aim to build a local cadre of Emirati government managers and officials who will work with PPPs. This will improve local knowledge and skills, which may replace

external actors and interests, including private ones. Therefore, a key element of a new PPP unit should be to train Emiratis to that end, through the establishment of professional and executive education programs and courses that may be offered.

### **A Dubai-based PPP unit for all of the UAE**

Given that Dubai has been at the forefront of the PPP process nationally and regionally, it has much to offer to the national debate as the UAE moves forward towards attracting, designing and managing future PPPs. Not only has Dubai been a central player in terms of PPPs within the UAE, it has also drafted and passed the country's first law dedicated to PPPs as well as publishing guidance on how it might work. Dubai's progress to date therefore suggests that it is in a key stage where the establishment of a PPP unit would be an important asset to the Government of Dubai.

A PPP unit based in Dubai need not limit itself to PPP projects, their design, recommendations, review and evaluation only within the emirate. Rather, the new PPP unit could have a long-term objective of providing policy and technical guidance and expertise to other emirates and the federal government. Moreover, it could provide that assistance on a consultancy basis across the UAE, thereby serving a senator of revenue and helping cover any potential start-up costs.

### **Department of Finance as the lead agency**

Where in the government should a PPP unit be placed? As previously noted, PPP units have been situated in different parts of the government bureaucracy, from the Financial Ministry/Treasury to the planning ministry, development bank or prime minister's office. In the case of Dubai, it would appear that much of the development towards PPP policy has come from the Government of Dubai's Department of Finance. Additionally, Article 9 of the PPP

law identifies the Department of Finance as the government entity responsible for supporting the ministries in preparing and developing possible projects. Following the introduction of the PPP law, the Department subsequently undertook a review of local and international experiences related to PPPs and coordinated contributions from across other government agencies. The fruits of that work resulted in the production of the policy guidance for the Government of Dubai and interested individuals, groups and organizations who want to make use of the PPP law. Given the Department of Finance's central role, it would therefore make sense to situate a new PPP unit within it, to take advantage of its accrued knowledge and expertise to date.

Having a PPP unit at the Department of Finance could offer a watching brief over the whole process of commissioning and overseeing the PPP process. At present the law and guidance suggests that tendering can be bypassed by government should a business consortium spot a gap and propose a PPP project that can be sufficiently financed and operated (Butcher 2015, Guest Authors 2016). In addition, because different government entities can propose, review and sign off PPP projects, there is a need for some coordination and oversight. It is therefore useful to have a body that can bring these various projects together and maintain a watching brief to ensure that different ministries are not duplicating activity or working at cross purposes. At the same time, the PPP unit within the Department of Finance could build up a list of desired projects and prioritise them, thereby providing useful information to businesses and consortia interested to participate on a PPP project.

Finally, if the PPP unit is to be effective in delivering on all of these demands, it is essential that it occupy a central role within government (European PPP Expertise Centre 2014: 11). It must be able to report into decision-making at the highest level and be both managed and staffed by individuals with

significant influence within government. At the same time though, it is important that there should be sufficient scrutiny and transparency of the PPP unit and its operations, so as to ensure confidence both inside and outside government, among the various ministries and its prospective and existing partners in the business and financial communities.

## Final remarks

This policy brief has proposed a PPP unit for the Government of Dubai. Having a PPP unit can bring added value to the process of designing, developing, overseeing and managing PPP projects. This is suggested in the growing body of scholarly and official literature relating to such agencies around the world. However, no two PPP units are the same. Instead they are designed and structured to address local and specific concerns of the country and community, both citizens and business, which they serve. Although Dubai is at the forefront of a region-wide shift towards greater use and involvement of PPPs, it has much to learn from the experience of others, both good and bad as it begins the task of evaluating what is most appropriate for its own needs.

At the same time, the creation of a PPP unit in Dubai would be of considerable benefit to the wider country as well. Having been among the first to enshrine policies and practices relating to PPP projects in law, Dubai is a trailblazer for the UAE and the wider Gulf region. As an accumulation of knowledge and expertise relating to PPPs, a Dubai-based PPP unit could potentially expand its scope to offer advice and support to other emirates as well.

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