Chapter-4

Public Private Partnership at the National & State Levels, and in Uttar Pradesh

This chapter is organised in three parts. The first and second part contains a study of the PPP initiatives at the national level and in various states of the Indian union respectively. The third part is devoted to a detailed account of the PPP projects in UP.

4.1 Public Private Partnership Projects at All-India Level

At the time of independence, socio-economic development was the utmost priority of the national government and the makers of the constitution were in confusion as to the model that should be chosen for infrastructure development which is considered to be a very important component for development. Initially, investment in infrastructure became a monopoly of the public sector because the government had to directly control and participate in developing infrastructure, together with encouraging the private sector sharing the load for many reasons. Firstly, there was dearth of private entrepreneurship and private capital. Secondly, the government wanted that the means of production, at least in the vital fields, should be under the public ownership for reasons of social justice. Thirdly, investment in infrastructure involves large financial outlays, long gestation periods and uncertain returns. The rigid rules, regulations and procedures followed by the government organisations do not create conditions conducive to private participation for investment in infrastructure development. So, they brought the unique idea of mixed economy. In a way, the model of PPP is a by-product of this arrangement only. The reconstruction of a nation is not an easy task, building physical and social infrastructure networks such as power, roads, education, health, water supply, urban and rural development requires huge investments which the government of a developing nation like India cannot afford to do alone as it may end up putting huge financial burden on public. Hence, the idea of PPP was adopted in a big way.
The story of PPP in India dates as far back as the later half of the eighteenth century when British companies made investments of about 95 mn pounds in rail and roads sectors. Then, there were private producers and distributors of power who emerged in Kolkata and Mumbai during early 1900s. The Great Indian Peninsular Railway Company operated between Bombay (now Mumbai) and Thana (now Thane) (1853), the Bombay Tramway Company running tramway services in Bombay (1874), and the power generation and distribution companies in Bombay and Calcutta (now Kolkata) in the early 20th century are some of the earliest examples of PPP in India.1

After independence, hardly anything significant happened till the beginning of economic liberalisation during the 1990s. At that time, the Indian government started to open doors for global enterprises and liberalised the norms for private players. Around the same time, a new-wave of PPP movement started when government allowed private players to enter into electricity generation and the independent power producers or IPPs were born. Soon, the National Highways Act, 1956, was amended to encourage private participation and the story continued. This PPP technique was restricted to the road sector2 at the beginning. Now, the government is resorting to this arrangement in areas such as education, health, ports, tourism and other infrastructure services.

January 30, 1997 is a notable date in the Indian history of PPP as on this day, acting on the recommendations of the ‘Expert Group on Commercialisation of Infrastructure Projects’ under the chairmanship of Dr. Rakesh Mohan3, the Government of India (GoI), on the initiative of the then Finance Minister P. Chidambaram, incorporated the Infrastructure Development Finance Company in Chennai (TN). The idea behind its incorporation was to depict the government’s sincerity towards channelising private sector capital, expertise and management in the development of nation’s infrastructure. To facilitate this process, the government is pushing for reforms to encourage private sector participation and has recently made various legal and regulatory changes to enable PPP in infrastructures. An online database on PPP projects www.pppindiadatabase.com and www.pppinindia.com have been developed. The

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2 ibid, p. 26.
3 see http://www.idfc.com/our-firm/history.htm (accessed on 15-03-2013)
The purpose of the website is to provide comprehensive and current information on the status and extent of PPP initiatives in India at the central, state and sectoral levels.

Though, the states of Andhra Pradesh (AP) and Gujarat had framed PPP policy but the central government is yet to finalise the policy. Department of Economic Affairs (DoEA), Ministry of Finance (MoF) has prepared the draft National Public Private Partnership Policy 2011\(^4\) which is under finalisation and has been put on the website (www.pppinindia.com) for consultation. A PPP Cell has been established in the DoEA, MoF, to administer various proposals and coordinate the activities to promote PPP.\(^5\) It will provide competencies and technical support to the ministries and other authorities developing PPP. The PPP Cell serves as the Secretariat for the PPP Appraisal Committee (PPPAC).

PPPAC is responsible for the appraisal of PPP projects in the central sector, was constituted in January 2006 and comprise of the following:

- Secretary, DoEA (in the Chair);
- Secretary, Planning Commission (now NITI Aayog);
- Secretary, Department of Expenditure;
- Secretary, Department of Legal Affairs; and
- Secretary of the Department sponsoring a project.

It has been adding value by shortening the approval process within the government, reducing the transaction costs and acting as a central focal point for identifying and disseminating best practices in rolling out PPP across sectors and ministries of the government. It first gives in-principle approval to a project put forth by a central government ministry/autonomous undertaking and sends it to DoEA, Planning Commission and concerned line ministries for approval. Subsequent to their approval, PPPAC gives final approval to the projects. Since its constitution, it has approved 307 central project proposals with total projects cost of ₹ 2,97,856.58 cr. These include NH (242 proposals), ports (29 proposals), airports (2 proposals), tourism

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\(^4\) see http://www.pppinindia.com (accessed on 15-03-2013)

\(^5\) n. 1, p. 31.

infrastructure (1 proposal), railways (1 proposal), housing (27 proposals), and sports stadia (5 proposals).  

Committee on Infrastructure (CoI) was instituted under the chairmanship of the Prime Minister in 2004 with an objective to initiate policies that enable creation and management of infrastructure, facilitate mechanisms for PPP, and monitor the progress of key infrastructure projects. The committee has since issued guidelines for implementation of PPP projects including bidder selection guidelines, specifications and standards for projects, model concession agreements, and financing plans.

Depending on the nature of the project, the contractual structures/agreements used for new projects would include inter-alia Management Contracts, Affermage/Lease, Concessions, Build and Transfer (B&T), Build-Lease-Transfer (BLT), Build-Transfer-Operate (BTO), Build-Operate-Transfer (BOT), BOT-Toll, Build-Own-Operate-Transfer (BOOT), Build-Own-Operate (BOO), Build-Operate-Share-Transfer (BOOST), Build-Own-Operate-Share-Transfer (BOOT), Build-Rehabilitate-Operate-Transfer (BROT), Build-Own-Lease-Transfer (BOLT), Design-Build-Finance-Operate (DBFO), DBFO-Transfer (DBFOT), Rehabilitate-Finance-Operate-Transfer (RFOT), Operate-Maintain-Share-and-Transfer (OMST), Joint Venture (JV), Lease-Develop-Operate-Transfer (LDOT), Build-Own-Operate-Maintain (BOOM), etc.

Standardised bidding and contractual documents have been notified. These include model Request for Qualification (RfQ); Request for Proposal (RfP) and RfP for technical consultants; Model Concession Agreements (MCAs) for different sectors including highways (both national and state highways), ports, urban transport (Metro), power sectors and manuals of standards and specifications have been developed and standardised. Further, project sponsors are encouraged toward projects through a transparent open competitive bidding process, which leads to greater transparency and consistency to the bid process and terms of contract.

In order to accelerate the implementation of PPP projects and providing them long-term finance, the government has initiated the ‘Viability Gap Funding (VGF)
scheme’ and established India Infrastructure Finance Company Limited (IIFCL). The VGF scheme is a special facility created to support those infrastructure projects which are economically justifiable but not commercially viable in the immediate future. It involves upfront grant assistance of up to 20 percent of the project cost for the PPP projects in cases where the project is awarded on competitive bidding and the private sector has 51 percent or more equity stake. This scheme is funded by MoF through budgetary allocations and the assistance is provided in the form of capital grants to fund a part of the project cost.\(^9\) An Empowered Committee and an Empowered Institution have been established for approving VGF up to US$ 50 mn and US$ 25 mn respectively, for projects which satisfy the eligibility criteria of the VGF scheme.\(^10\)

The sectors eligible for VGF under this Scheme are:\(^{11}\)

- Roads and bridges, railways, seaports, airports, inland waterways;
- Power;
- Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas;
- Infrastructure projects in Special Economic Zones (SEZ) and internal infrastructure in National Investment and Manufacturing Zones (NIMZ);
- International convention centers and other tourism infrastructure projects;
- Capital investment in the creation of modern storage capacity including cold chains and post-harvest storage;
- Education, health and skill development, without annuity provision;
- Oil/Gas/Liquefied Natural Gas (LNG) storage facility (includes city gas distribution network);
- Oil and Gas pipelines (includes city gas distribution network);
- Irrigation (dams, channels, embankments, etc);
- Telecommunication (Fixed Network) (includes optic fibre/wire/cable networks which provide broadband/internet);
- Telecommunication towers;
- Terminal markets;
- Common infrastructure in agriculture markets; and


\(^10\) ibid.

\(^{11}\) see http://www.pppinindia.com/approval-committees.php (accessed on 15-03-2013)
Soil testing laboratories.

Provided that the Empowered Committee may, with approval of the Finance Minister, add or delete sectors/sub-sectors from the aforesaid list.

IIFCL, established in 2006, is the Special Purpose Vehicle (SPV) created for rendering long term financial assistance up to 20 percent of capital cost, to project companies with a preference to infrastructure projects through:

- Direct lending to eligible projects,
- Refinance to banks and financial institutions and
- Any other method approved by GoI.

Thus, it eases the asset-liability mismatch and sets a benchmark for market borrowings by other organisations. Such a framework provided by the government, provides numerous opportunities for investment into the various infrastructural sectors of the country, which have immense untapped potential for further growth and expansion. IIFCL is expected to fill the gap in long-term debt financing for infrastructure projects and complement the efforts of commercial banks and other financial institutions. It also provides refinance to banks and financial institutions for loans with tenor of five years or more. The commercial banks in India participate in the infrastructure project funding and typically provide three-fourth of the total funds. IIFCL has also been identified as the channeling agency for using part of foreign exchange reserves to finance import of capital goods for infrastructure projects.

For providing financial support for quality project development activities to the states and the central ministries, a corpus fund titled ‘India Infrastructure Project Development Fund’ (IIPDF), with initial contribution of ₹ 100 cr. was launched in December 2007, in DoEA, MoF. Upto 75 percent of the feasibility level project development cost may be financed from this fund as interest free loan and is envisaged to be recovered from the successful bidder. If the project does not take off, then the same is converted to a grant. Any state government and local body can avail of this facility for developing PPP projects. The IIPDF’s primary objective would be to fund potential PPP projects development expenses including costs of engaging consultants.

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12 n. 9, p. 21.
and transaction advisor, thus increasing the quality and quantity of successful PPP and allowing informed decision making by the government based on good quality feasibility reports. From the GoI’s perspective, the IIPDF must increase the quality and quantity of ‘bankable projects’ that are processed through the central or states project pipeline.\textsuperscript{14} As on December 2012, 51 projects have been approved with IIPDF assistance of ₹ 64.51 cr. of which ₹ 25.00 cr. has been disbursed.\textsuperscript{15}

Online toolkits for PPP projects for five sectors were developed and launched by the Finance Minister.\textsuperscript{16} These sectors are SH, water and sanitation, ports, solid waste management and urban transport (bus rapid transport systems).\textsuperscript{17} It is a web-based resource that has been designed to help improved decision-making for PPP infrastructure in India and to improve the quality of the PPP infrastructure that is implemented at the central, state and municipal levels.\textsuperscript{18} The toolkit is used by PPP practitioners across India in both the public and private sectors.

The Union Cabinet created Cabinet Committee on Investment (CCoI), originally proposed to be set up as National Investment Board, for fast-track decisions on infrastructure and manufacturing projects over ₹ 1,000 cr. It will be chaired by Prime Minister and comprises members from various ministries.\textsuperscript{19} It has been set up to monitor investment proposals as well as projects under implementation, including stalled projects, and guided decision-making in order to remove bottlenecks and quicken the pace of implementation. It will set time limits for decisions on approvals and clearances and will then monitor the process to ensure that those deadlines are met. It will be able to review cases which face delays and will facilitate the removal of hindrances in the process. In the new version, CCoI’s primary role will be to urge nodal ministries to fast-track clearances.

There are about 1287 PPP projects in different infrastructure sectors with total project cost of ₹ 766,670.72 cr. by end of March 2016\textsuperscript{20} in comparison to 758 PPP

\begin{itemize}
\item \textsuperscript{14} n. 13.
\item \textsuperscript{15} n. 7, p. 251.
\item \textsuperscript{16} ibid.
\item \textsuperscript{17} see http://toolkit.pppinindia.com/ (accessed on 15-03-2013)
\item \textsuperscript{18} ibid.
\item \textsuperscript{19} see http://pib.nic.in/newsite/erelease.aspx?relid=92767 (accessed on 15-03-2013)
\item \textsuperscript{20} see https://infrastructureindia.gov.in (accessed on 31-03-2016)
\end{itemize}
projects\textsuperscript{21} costing ₹ 383,332.06 cr. as on January 31, 2011 under various stages of implementation, i.e. bidding, construction and operational stages. Maharashtra, Karnataka, MP and TN are the leading states in terms of number and value of projects. At the national level, the National Highway Authority of India (NHAI) is the leading user of the PPP model. The broad sectors encouraged under the PPP framework are roads, railways, education, health, ports, airports, power, telecommunication and urban infrastructure. Hyderabad International Airport (BOOT), Delhi International Airport Terminal-3, Bangalore International Airport (BOOT), Cochin International Airport (BOO) is under operation. Multipurpose Berths and Container Terminal at Visakhapatnam Port, Container Freight Station and Container Terminal (Phase I) at Kandla Port, Crude Oil Handling for Kochi Refineries Limited (Lease), Mechanisation of Cargo Handling at Paradip Port and Container Terminal (Berth No. 7) at Tuticorin Port have been also completed.\textsuperscript{22} In other sectors also, many PPP projects are under various stages of implementation.

4.2 Public Private Partnership Initiatives at the States Levels

4.2.1 Andhra Pradesh

To actively promote PPP projects in the state, PPP Cell was created in Finance Department in April 2007, as per the Memorandum of Understanding signed between Government of AP and DoEA, MoF, GoI on participation in the Asian Development Bank (ADB) Technical Assistance Project. The state government has set up various institutions to develop and promote infrastructures like Infrastructure Corporation of AP (INCAP), AP Industrial Infrastructure Corporation (APIIC), AP Tourism Development Corporation (APTDC), AP Invest, AP Road Development Corporation (APRDC), AP Urban Finance and Infrastructure Development Corporation (APUFIDC). It is one of the first states to enact AP Infrastructure Development Enabling Act, 2001 which gives guidelines for process of the selection of the developer, PPP types, and ranges of state support extended to infrastructure projects.\textsuperscript{23} A comprehensive website (www.ppp.ap.gov.in) is developed to disseminate the PPP information.

\textsuperscript{22} ibid.
AP has more than 74 PPP projects under various stages of implementation and of these, most of the projects are in the roads sector.\textsuperscript{24} It has one of the largest numbers of projects initiated by the central government in the state. It is also the first to have a PPP Metro Rail Project sanctioned by GoI. The major PPP projects in the state are Hyderabad International Airport (BOOT), Container Terminal and Multipurpose Births at Visakhapatnam Port which has been completed. Farukhanagar to Kotakatta (NS2/AP-3 & 4), 4 laning of Hyderabad-Yadgiri section and Armur-Adloor-Yellareddy section, Chilkaluripet-Vijayawada, etc. on BOT-Toll format are central roads projects that are under construction in the state.\textsuperscript{25} The state has initiated PPP in education, energy, forest, health, information technology, ports, roads, tourism, urban development and industries. Mid-day Meal Programme (Hyderabad & Secunderabad), upgradation of 1396 government ITIs, ICT at 5000 schools and 1000 Schools Computer Education Projects are under operation.\textsuperscript{26} LPG Storage Plant (Anantapur), Storm Water Drainage Project (Gangulagedda-Yerrigedda Branch Canals), Chittoor Bypass Road, Coal Handling Facility (Visakhapatnam), Visakhapatnam Industrial Water Supply Project, Water Sports & FEC at Rajahmundry, etc. are some of the completed projects under different sectors.\textsuperscript{27}

\subsection*{4.2.2 Arunachal Pradesh}

Arunachal Pradesh (AR)\textsuperscript{28} is located in the Northeastern part of India. It has undulating topography and varied agro-climatic conditions that offer vast potential for growing a variety of fruits, vegetables, spices, aromatic and medicinal plants, flowers and mushroom. The development of the state is very important for prosperity and security of India.

The Nabam Tuki government has paved the way for massive private investments in various viable sectors of the state with the adoption of the state PPP policy-2011. AR has been a late starter in the field except some limited experiments in the health sector

\begin{itemize}
\item \textsuperscript{24} n. 20.
\item \textsuperscript{25} n. 21.
\item \textsuperscript{26} ibid.
\item \textsuperscript{27} n.20
\item \textsuperscript{28} Note: The two-letter abbreviations of Arunachal Pradesh as per ISO 3166-2 code is AR in order to avoid confusion with the abbreviation of Andhra Pradesh (AP). <http://en.wikipedia.org/wiki/List_of_Indian_States_and_Union_Territories_by_two-letter_codes> (accessed on 15-03-2013)
\end{itemize}
(management of PHCs/CHCs); practically no PPP projects have been implemented in the state.²⁹

Table 4.1: State-wise Number of Public Private Partnership Projects  
(As on March 31, 2016)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>State</th>
<th>No. of Projects</th>
<th>Total Project Cost (in ₹ cr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Andaman &amp; Nicobar Islands (UT)</td>
<td>1</td>
<td>85.00</td>
</tr>
<tr>
<td>2.</td>
<td>Andhra Pradesh</td>
<td>74</td>
<td>35,758.19</td>
</tr>
<tr>
<td>3.</td>
<td>Arunachal Pradesh</td>
<td>1</td>
<td>900.00</td>
</tr>
<tr>
<td>4.</td>
<td>Assam</td>
<td>10</td>
<td>2,481.77</td>
</tr>
<tr>
<td>5.</td>
<td>Bihar</td>
<td>22</td>
<td>15,416.32</td>
</tr>
<tr>
<td>6.</td>
<td>Chandigarh (UT)</td>
<td>1</td>
<td>15.00</td>
</tr>
<tr>
<td>7.</td>
<td>Chhattisgarh</td>
<td>11</td>
<td>12,856.94</td>
</tr>
<tr>
<td>8.</td>
<td>Dadra &amp; Nagar Haveli (UT)</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>9.</td>
<td>Daman &amp; Diu (UT)</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>10.</td>
<td>Delhi (UT)</td>
<td>17</td>
<td>3,809.48</td>
</tr>
<tr>
<td>11.</td>
<td>Goa</td>
<td>7</td>
<td>2,125.00</td>
</tr>
<tr>
<td>12.</td>
<td>Gujarat</td>
<td>99</td>
<td>74,668.02</td>
</tr>
<tr>
<td>13.</td>
<td>Haryana</td>
<td>25</td>
<td>35,072.89</td>
</tr>
<tr>
<td>14.</td>
<td>Himachal Pradesh</td>
<td>39</td>
<td>14,158.46</td>
</tr>
<tr>
<td>15.</td>
<td>Jammu and Kashmir</td>
<td>7</td>
<td>16,934.02</td>
</tr>
<tr>
<td>16.</td>
<td>Jharkhand</td>
<td>14</td>
<td>5,732.61</td>
</tr>
<tr>
<td>17.</td>
<td>Karnataka</td>
<td>139</td>
<td>58,800.84</td>
</tr>
<tr>
<td>18.</td>
<td>Kerala</td>
<td>33</td>
<td>16,883.62</td>
</tr>
<tr>
<td>19.</td>
<td>Lakshwadeep (UT)</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>20.</td>
<td>Madhya Pradesh</td>
<td>162</td>
<td>36,788.65</td>
</tr>
<tr>
<td>21.</td>
<td>Maharashtra</td>
<td>200</td>
<td>102,995.73</td>
</tr>
<tr>
<td>22.</td>
<td>Manipur</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>23.</td>
<td>Meghalaya</td>
<td>2</td>
<td>762.11</td>
</tr>
<tr>
<td>24.</td>
<td>Mizoram</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>25.</td>
<td>Nagaland</td>
<td>0</td>
<td>0.00</td>
</tr>
</tbody>
</table>

The policy envisages leveraging central and state government funds to support private investment, setting up of a transparent mechanism to create level playing field for all participants, prepare shelf of projects under PPP and implement them through transparent selection process, create a robust redressal mechanism and provide VGF for essential projects. In addition, an AR Infrastructure Development Fund will be set up which will be used to assist capacity building and training, provide direct financial support to projects and take up technical and financial pre-feasibility and feasibility studies.\textsuperscript{30}

As an institutional arrangement, a High Level Clearance Authority (HLCA) under the chairmanship of Chief Minister shall be constituted in respect of all infrastructure projects being undertaken in PPP mode and requires its approval having investment of over ₹ 100 cr. The government shall also constitute an Empowered Committee on Infrastructure (ECoI) consisting of a group of Secretaries under the chairmanship of the Chief Secretary, Government of AR for facilitating infrastructure development in the state under PPP. It shall be the nodal agency for all activities related

\textsuperscript{30} n.29
to selection, prioritisation, facilitation, monitoring and approval of all PPP projects up to ₹ 100 cr.\textsuperscript{31}

Table 4.2: Sector-wise Number of Public Private Partnership Projects

(As on March 31, 2016)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Sector-wise</th>
<th>No. of Projects</th>
<th>Total Project Cost (in ₹ cr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Energy</td>
<td>166</td>
<td>48,187.45</td>
</tr>
<tr>
<td>1.</td>
<td>Electricity generation (grid)</td>
<td>27</td>
<td>18,682.30</td>
</tr>
<tr>
<td>2.</td>
<td>Electricity transmission</td>
<td>22</td>
<td>8,810.30</td>
</tr>
<tr>
<td>3.</td>
<td>Oil/ Gas/ LNG Storage</td>
<td>1</td>
<td>1,500.00</td>
</tr>
<tr>
<td>4.</td>
<td>Renewable energy (grid)</td>
<td>116</td>
<td>19,194.85</td>
</tr>
<tr>
<td>B</td>
<td>Social and Commercial Infrastructure</td>
<td>124</td>
<td>46,657.77</td>
</tr>
<tr>
<td>1.</td>
<td>Cold Chain</td>
<td>10</td>
<td>1,628.54</td>
</tr>
<tr>
<td>2.</td>
<td>Common infrastructure for industrial parks, SEZ</td>
<td>55</td>
<td>38,159.15</td>
</tr>
<tr>
<td>3.</td>
<td>Education</td>
<td>15</td>
<td>1,213.49</td>
</tr>
<tr>
<td>4.</td>
<td>Health Care</td>
<td>9</td>
<td>938.02</td>
</tr>
<tr>
<td>5.</td>
<td>Tourism</td>
<td>35</td>
<td>4,718.57</td>
</tr>
<tr>
<td>C</td>
<td>Transport</td>
<td>886</td>
<td>651,621.20</td>
</tr>
<tr>
<td>1.</td>
<td>Airports</td>
<td>12</td>
<td>7,785.52</td>
</tr>
<tr>
<td>2.</td>
<td>Ports (excluding captive)</td>
<td>116</td>
<td>124,932.36</td>
</tr>
<tr>
<td>3.</td>
<td>Railway track, tunnel, viaducts, bridges</td>
<td>9</td>
<td>6,648.89</td>
</tr>
<tr>
<td>4.</td>
<td>Roads and bridges</td>
<td>694</td>
<td>479,413.61</td>
</tr>
<tr>
<td>5.</td>
<td>Urban public transport (except rolling stock)</td>
<td>55</td>
<td>32,840.82</td>
</tr>
<tr>
<td>D</td>
<td>Water Sanitation</td>
<td>111</td>
<td>20,204.30</td>
</tr>
<tr>
<td>1.</td>
<td>Sewage collection, treatment and disposal system</td>
<td>23</td>
<td>1,800.79</td>
</tr>
<tr>
<td>2.</td>
<td>Solid waste management</td>
<td>57</td>
<td>11,689.74</td>
</tr>
</tbody>
</table>

3. Water supply pipeline  & 20 & 4,883.23  
4. Water treatment plants  & 11 & 1,830.54  
**Total**  & **1287** & **766,670.72**  

Source: https://infrastructureindia.gov.in/  
Note: Does not include PPP projects in pipeline

The Planning Department will be the nodal department for implementing the policy through the Directorate of PPP. The PPP Cell would assist different government departments in identifying, conceptualising and creating shelves of projects and also assist them in preparing detail project reports and tendering process. It would coordinate with other funding agencies like GoI, Planning Commission, etc. for obtaining approvals under VGF and act as nodal agency for capacity building for PPP in the state. The ultimate objective would be to create PPP Cells in all the line departments/agencies of the government to co-ordinate with the state PPP Cell and to take forward the PPP initiatives. The PPP Cell is to be assisted by a Technical Secretariat.\(^{32}\)

The state does have only one PPP projects in transport sector at a total project cost of ₹ 900 cr.\(^{33}\)

4.2.3 Assam

Situated in one corner of the country, the state has to improve physical infrastructure to trigger rapid industrialisation for which a comprehensive view of infrastructure development is required. The Government of Assam proposes to bring in private sector investment with PPP mode as one of the preferred routes for infrastructure development of the state as the North Eastern Region has failed to attract private sector investment in a big way because of various reasons including negative perceptions about the region. It is felt that PPP, if developed properly may pave the way for bringing in investment to the region and in improving perceptions about the region in the longer term.

\(^{34}\)Recognising the requirement for an effective and efficient institutional mechanism to ensure timely clearance of projects, The Government of Assam has

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\(^{32}\) n.31  
\(^{33}\) n.20
Public Private Partnership at the National & State Levels, and in Uttar Pradesh

constituted high powered committees viz. Apex Authority under the chairmanship of Chief Minister and Empowered Committee headed by Chief Secretary of the state. The Apex Authority will grant in principle approval for all projects proposed to be developed in PPP mode where the value of underlying assets exceeds ₹ 100 cr. The Empowered Committee on PPP shall be the nodal agency to achieve the policy goals and co-ordinate with various authorities of the national and state governments to facilitate private sector investment in developing infrastructure through PPP mode. The PPP Cell, within Planning and Development Department is assisting line departments in project development activities and acting as Technical Secretariat to the Empowered Committee and Apex Authority. To extend financial support to the sponsoring agencies, a Project Development Fund through state budgetary support under Planning and Development Department is created for reimbursement of project development expenses.

As of 31 March 2016, Assam government has undertaken to develop 10 projects under various sectors across the state.\textsuperscript{35} Champamati Hydro Power Project 4MW, Integrated Solid Waste Management Guwahati (500 TPD), Bodrikarai Hydro Power Project, Solid Waste Management (Guwahati) and Organic Agriculture Produces Market Complex (Sixmile-Panjabari) are the important projects in the state.\textsuperscript{36} The government has also launched a PPP based program with Marwari Hospital to provide basic health and reproductive services to poor urban women and their children in and around Guwahati city in Assam.\textsuperscript{37}

4.2.4 Bihar

Infrastructure Development Authority (IDA) has been constituted under the chairmanship of the Chief Secretary, Government of Bihar under the Bihar State Infrastructure Development Enabling Act-2006, to provide for the rapid development of physical and social infrastructures in the state and to attract private sector participation in designing, financing and construction of infrastructure projects. It is the nodal agency for PPP initiatives in the state and act as approving agency for all

\textsuperscript{35} ibid.
\textsuperscript{36} ibid. see http://ppphealth.org/index.php?option=com_content&view=article&id=121&Itemid=510 (accessed on 15-03-2013)
PPP projects. PPP Cell has been formed under IDA. Steering Group on PPP is constituted and its members are experts from economic, management, legal and other fields. It suggests policy and regulatory frameworks and standardise the planning, approval and execution process of PPP projects. It also devise ways for the protection of public money in PPP projects.\footnote{see http://www.idabihar.com/ (accessed on 15-03-2013)}

Bihar had undertaken 22 PPP projects amounting to ₹ 15,416.32 cr. Out of these, only two projects are completed and other projects are under construction.\footnote{n.20} Ratu Road Commercial Complex on BOT-Annuity type has been completed in urban development sector.\footnote{Compendium of Public Private Partnership projects in Infrastructure, PPP & Infrastructure Division Planning Commission, Government of India, p. 34} Mokama-Munger, Purnea-Khagaria, and Patna-Bhaktiyar road projects are completed while Kosi Bridge Project, Chappa-Hajipur and Piprakathi-Raxaul roads projects are under construction on BOT-Annuity type.\footnote{n.20} In 2011-12 railway budget, the state has been given two major projects; an Electric Locomotive Factory at Madhepura and Diesel Locomotive Factory at Marhaura in Saran district on PPP basis.\footnote{Bihar: The Land of Buddha, India Brand Equity Foundation, August 2012, p. 16.}

\section*{4.2.5 Chhattisgarh}

The state of Chhattisgarh has undertaken 11 projects worth ₹ 12,856.94 cr. as of March 2016. The Chhattisgarh Industrial Policy 2009-14 aims to promote private sector participation for the development of basic and industrial infrastructures and to create an enabling environment for encouraging export.\footnote{Industrial Policy 2009-14, Commerce and Industries Department, Government of Chhattisgarh.} There is no institutional framework for PPP in the state. According to the state PPP policy-2013, the concerned departments will acts as nodal agency for initiating PPP projects and can also form PPP committees and PPPAC for this.\footnote{Chhattisgarh Public Private Partnership Policy-2013, Finance Department, Government of Chhattisgarh. p. 8. < http://cgfinance.nic.in/ppp/Policies/Chhattisgarh_PPP_Policy_Hindi.pdf > (accessed on 05-01-2016)} Efforts have been made for PPP models in the areas of mega industrial projects for establishing technical institutions, engineering colleges, polytechnics and ITIs. National Highways, connecting sub highways, ring roads will be developed in the large industrial project areas and for upgradation of existing roads, initiative will be made for implementation on PPP basis. Common Rail Corridor will be established to provide connectivity to state’s proposed industrial projects from mineral
areas through PPP route. Water supply arrangement initiatives will also be made for industrial projects. Some of the completed power projects are Sipat Coal Based Power Project-Stage I, 1,200 MW Raigarh Coal Based Power Project, 30 MW Durg Solar Photovoltaic Power Project, Korba-Bhilai Transmission Line Project and Korba Biomass Based Power Project. The Raipur Airport-Expansion Project, Champa-Saragundia Railway Line, Raipur Durg Expressway, and Durg Bypass Road are some of the completed projects in transport sector. The ongoing PPP projects in Chhattisgarh are amusement and recreational park, sports city and Knowledge Park in Naya Raipur. The Food Processing Park is proposed to be set up in Rajnandgaon through PPP route by Chhattisgarh State Industrial Development Corporation (CSIDC). Herbal-medicinal Park is being developed by M/s Ramky Infrastructure Limited; a Hyderabad based company at the Banjari and Bagaudh villages of Kurudh tehsil (30 km from Raipur) in Dhamtari. CSIDC also plans to setup a Gems and Jewellery SEZ on a PPP basis with M/s Ramky Infrastructure Limited.

4.2.6 Goa

In keeping with the motto of developing Goa as a “State of Excellence”, the Industrial Policy of Goa 2003 document envisages development of world class infrastructure on par with developed countries. The state is actively encouraging and promoting PPP in infrastructure development and invited both Indian and foreign investments.

Goa State Infrastructure Development Corporation Limited (GSIDC), a wholly owned government company of the Government of Goa, has been floated as a SPV for speedy implementation of all the infrastructural projects, envisaged by the government like roads, bridges, fly-overs, bus-stands, hospitals, tourism related projects, etc. all over the state. It would also act as a co-ordinating agency for implementing all the projects. The Goa government has decided to set aside a special corpus of ₹ 50 cr. (over $1 mn) annually to cover viability gaps for infrastructure projects undertaken on a PPP

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45 n.20
46 ibid.
47 see http://www.csidc.in/fpp.htm. (accessed on 15-03-2013)
48 see http://www.csidc.in/hmp.htm (accessed on 05-01-2016)
49 see http://www.csidc.in/gjsez.htm (accessed on 05-01-2016)
51 see http://www.gsidcltd.com/aboutus.asp?id=1 (accessed on 15-03-2013)
basis to make them commercially viable.\footnote{Goa sets up Rs 50 crore corpus for PPP projects &lt; http://www.sify.com/finance/goa-sets-up-rs-50-crore-corpus-for-ppp-projects-news-default-lbutEniege.html&gt; (accessed on 15-03-2013)} This VGF would be called the Goa Infrastructure Project Development Fund (GIPDF). Its primary objective would be to fund potential PPP projects development expenses including costs of engaging consultants and transaction advisor, thus increasing the quality and quantity of successful PPP and allowing informed decision making by the government based on good quality feasibility reports. It will be administered by the Empowered Institution which is a committee, headed by the Chief Secretary along with the Finance Secretary, Director for Planning and Secretary of the concerned department as its members. The Director for PPP will serve as member Secretary of the committee.\footnote{Goa gets Rs 50 cr fund for PPP promotion &lt; http://articles.timesofindia.indiatimes.com/2011-04-23/goa/29466327_1_ppps-bid-projects-bankable-projects&gt; (accessed on 15-03-2013)} About 7 projects have been undertaken with the total project cost of ₹ 2,125 cr. in different sectors (table-3.1).

4.2.7 Gujarat

Gujarat has been one of the leading states in implementing PPP projects and one of the few states that have enacted special legislations for infrastructure development through PPP that cuts across sectors and have created institutions for undertaking these initiatives. The Blueprint for Infrastructure in Gujarat 2020 (BIG 2020) is the vision of Gujarat to ensure that growth is inclusive and benefits all sections of society. It details the objectives, vision and strategy for growth to be achieved up to 2020. In order to achieve it, high quality power, efficient ports, a well developed road network, telecommunication, industrial parks, industrial water supply and sewerage are needed to sustain the economic growth. This requires huge investment in infrastructure to the tune of ₹ 11,25,000 cr.

The Gujarat Infrastructure Development Board (GIDB), set up in 1995 under the Gujarat Infrastructure Development Act, 1999, is the nodal agency to promote PPP in all infrastructure sectors headed by Chief Minister. The Executive committee of GIDB is chaired by the Minister of State (industries). Chief Secretary and Senior Secretaries are members of the board. It plays a pivotal role in project structuring, undertaking feasibility studies, preparing and approving concession agreements, overseeing bidding process, laying down priorities of the project, advising in matters of policy and
undertaking Master Plan exercise.\textsuperscript{54} It is also imparting training programmes on PPP to the officers of state government and it agencies. The programmes are conducted in consultation with Infrastructure Leasing and Financial Services Limited (IL&FS) and Credit Rating and Information Services Limited (CRISL).

The Gujarat Infrastructure Development Act, 1999 (BOT Law) (amended in 2006), provides the legal framework for private sector participation in financing, construction, operation and maintenance of the project. It provides a fair, transparent and clear-cut mechanism for selection of developers, either through international competitive bidding, or through direct negotiations, with the very strong element of transparency and competitive arrangement.\textsuperscript{55} It provides for 12 types of concession agreement (including BOOM, BT, BLT, BTO, Lease Management, Management Contract, ROT, ROM, Service contract, SOT and Joint Venture agreement) in the schedule of the Act, which provides sufficient scope and flexibility to the state government and the private sector.

About 99 projects at the total cost of Rs 74,668.02 cr. are under various stages of development in the state (table-3.1). Some of the important PPP projects in Gujarat are Ahmedabad-Gandhinagar Metro Rail Project, Sikka Coal Based Power Project-Unit No. 3 & 4, Mundra LNG Re-gasification Terminal Project, 5 MW Charanka Solar Photovoltaic Power Project, Kandla Barge Jetty Project, the Pipavav Greenfield Port, Dahej LNG Project, Mundra Greenfield Port, Hazira LNG Terminal, Samakhiali-Gandhidham Road Project, etc. are under various stages of implementation.\textsuperscript{56}

4.2.8 Haryana

Haryana is an industrial state and has emerged as a base for knowledge industry including IT and biotechnology. It is also a leading agricultural state of the country. Many Indian and multi-national companies have set-up offices in the state because of good infrastructure and proximity to Delhi. Around 40 percent of the National Capital Region (NCR) of Delhi falls in Haryana. The state has well developed social, physical and industrial infrastructure and virtual connectivity. It is among the states equipped with incomparable infrastructure such as power, roads and railways. Panipat, Rohtak, Gurgaon, Faridabad and Sonepat have a special potential for accelerated socio-

\textsuperscript{54} see http://www.gidb.org/gidb/default.aspx (accessed on 15-03-2013)
\textsuperscript{55} ibid.
\textsuperscript{56} n.20
economic development. The Government of Haryana recognises that partnership approach under PPP should be one of the tools to deliver public services to improve the quality of life of its people. The main objective of PPP policy is to create an enabling environment and to facilitate private sector participation in upgrading, developing and expanding the physical and social infrastructure in the state.

A PPP Cell has been created by the state in the Finance Department. The DoEA, GoI has provided experts under the technical assistance programme of ADB. The Haryana government is considering a proposal to adopt PPP model for promotion of various sports infrastructure and to urge industries to adopt different games.\(^57\)

The infrastructure sectors/sub sectors and facilities in the ambit of this policy would, inter alia, include healthcare facilities, education, tourism and related projects, urban infrastructure, power, highways, roads, sports, rural-public conveniences, e-governance and others sectors which could be expanded/modified as and when considered necessary.\(^58\)

About 25 projects at the total cost of ₹35,072.89 cr. are under various stages of development (table-3.1). Water Supply Scheme (Kaushalya Dam & Panchkula), Biomass Based Power (Bhiwani & Mohindergarh) Project, IT Special Economic Zone (Rai) and Jatwar Rice Husk Based Power Project have been completed. Gurgaon Metro South Extension (RMGSL) project, Amusement Park at Gurgaon, Unitech SEZ at Kundli, Sonipat, Rohtak-Hisar NH-10 Road Project, and installation of 100 Reverse Osmosis Plants in 100 villages are under construction.\(^59\)

### 4.2.9 Himachal Pradesh

In 2012, Himachal Pradesh (HP) had only one project through PPP mode.\(^60\) The only project of NHAI, Zirakpur-Parwanoo Road (BOT-Toll) was under construction with a project cost of US$ 100.2 mn. At present, 39 projects with total cost of ₹14,158.46 cr. are under various stages of development (table-3.1). HP Infrastructure Development Board (HPIDB) established in January 2002 under the ‘HP Infrastructure Development Act 2001’ for development of various infrastructure projects act as a PPP

\(^59\) n.20
\(^60\) Himachal Pradesh: The Abode of Gods, India Brand Equity Foundation, August 2012, p. 23.
Cell of the state government. It has been made nodal agency for appointment of consultants for all the departments of state government for execution of various types of projects. According to ‘Industrial Policy-2004’ efforts would be made to encourage PPP that enables private investors to invest in agriculture infrastructure in partnership with banks and financial institutions. Some of the completed projects are Koldam Thermal Power Project, Common Effluent Treatment Plant (Baddi), Rampur Hydro Power Project, Sumez Hydro Electric Project, Malana-I Hydro Electric Project, Kurmi Hydro Electric Project and Parbati Hydel Power Project Stage III. With a view to explore the potential of biotechnology in the state, the government has proposed to set up Biotechnology Park at Solan district under PPP mode.

4.2.10 Jammu and Kashmir

The government has constituted a Cabinet sub-committee to formulate a sound and effective PPP policy so that investors from outside the state are attracted to be part of the joint ventures between local private business players and the government. It laid stress on identifying small and medium projects in the sectors of education, health, power, tourism and sanitation under PPP mode.

At present, 7 PPP projects in different sectors are under various stage of development costing 16,934.02. Sewa Hydel Project Stage II, Uri Hydel Power Project Stage II, Dul Hasti Hydel Power Project, Baglihar Hydel Power Project Stage-II, Uri II Transmission Line Project, Storage Facility (Pampore) Project and Nimoo Bazgo Hydel Power Project are the completed projects in power sector. Expressway Corridor (Jehangir Chowk-Rambagh-Natipura) Project, Flyover (Bikram Chowk) Project, Two Laning of Srinagar-Sonamarg-Gumri section, Jammu Tawi-Udhampur SL

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62 n.20
64 Cabinet Sub-Committee to formulate PPP policy: Omar < http://jknc.in/nc/Details.aspx?PR ID=1317&NorE=N> (accessed on 15-03-2013)
65 n.20
66 ibid.
Railway Line and Kathua-Madhopur-Punjab DL Railway Line Project are some of the projects in transport sector under construction.\textsuperscript{67}

4.2.11 Jharkhand

The state of Jharkhand, located in the eastern part of India, is blessed with huge natural resources such as minerals, forests, water resources, energy sources, fertile land, etc. which when tapped successfully can place the state amongst one of the most prosperous and developed states of the country. The state has witnessed low PPP activity in infrastructure projects. The Jharkhand Industrial Policy-2012 lays down significant emphasis on implementation of PPP in industrialisation especially in infrastructure development, industrial area development, industrial park, human resource development, service sectors, etc.\textsuperscript{68} Developments of physical and social infrastructures through PPP route have been accorded top priorities by the state government. Private investment in power, telecom, roads, airports, Inland container depot, logistics, etc. will be facilitated. The state has already started implementing the concept of BOT, BOOT, etc. and would evolve comprehensive guidelines for funding and operating infrastructure projects with PPP. The state government is willing to transfer existing and upcoming engineering colleges/polytechnics/ITIs to competent educational/industrial groups for managing these under PPP mode so that the requirements of qualified and skilled manpower of industries being set up in Jharkhand can easily be met. Jharkhand Infrastructure Development Corporation (JINFRA) is the nodal agency for all projects of Jharkhand to be pursued under PPP. The state has about 14 projects under different sectors at a total cost of ₹ 5,732.61 cr. Some of the completed projects through PPP route are Koderma Power Project, Deoghar-Dumka Railway Line, Chandrapura Power Project Units VII & VIII, Tatisilwai Captive Power Project, 126 MW Ramgarh Coal Based Power Project, Maithon Hydel Power Project – Renovation, and Rajaganj-Barakata NH-2 Road Project.\textsuperscript{69}

4.2.12 Karnataka

The state government has set up a PPP Cell in June 2007, in the Infrastructure Development Department (IDD) headed by the Principal Secretary. It also constituted a state level single window agency under the chairmanship of the Chief Secretary to

\begin{itemize}
  \item \textsuperscript{67} n.20
  \item \textsuperscript{69} n.20
\end{itemize}
approve the PPP projects up to ₹ 50 cr. and to recommend the projects above ₹ 50 cr. to the state high level committee under the chairmanship of the Chief Minister constituted under section 3 of the Karnataka Industries (Facilitation) Act 2002.\textsuperscript{70} In order to provide a fair and transparent policy framework to facilitate and encourage PPP in upgrading, expanding and developing infrastructure in the state, a new infrastructure policy was passed in July 2007. The Infrastructure Development Corporation (Karnataka) Limited (iDeCK) provides technical advice and support to the PPP Cell which will have other supporting staff from the Secretariat. The PPP Cell will be the nodal agency to receive the proposals in respect of the PPP projects and place them before the Single Window Agency (SWA) for consideration and approval. A district level PPP committee has also been constituted under the chairmanship of the Deputy Commissioner to coordinate and assist in the implementation of PPP projects.\textsuperscript{71} Agriculture, infrastructure, education, energy, healthcare, industrial infrastructure, irrigation, public markets, tourism, transportation and logistics, urban and municipal infrastructure are the main sectors to be taken through PPP route.

Bangalore International Airport is the first airport in the country being executed through the PPP route.\textsuperscript{72} The airport was developed through a JV of the Airports Authority of India (GoI), KSIIDC (Government of Karnataka), and private promoters (Siemens, Zurich Airport, Larsen & Toubro) at Devanahalli in Bengaluru as a passenger and cargo department hub on BOOT type. It started operation on May 2008. The state has the third largest number of PPP projects, i.e. 139 projects costing ₹ 58,800.48 cr. as on March, 2016.\textsuperscript{73}

\subsection*{4.2.13 Kerala}

The draft Industrial Policy for 2011 has reiterated the need for developing industrial infrastructure on par with the global standards for improving the quality of life and attracting entrepreneurs to the state. Infrastructures Kerala Limited (INKEL) is a public private enterprise formed by the government for promoting industries and infrastructure projects within the state by attracting investment from the public, mainly the Non-Resident Keralites. The state government has passed Kerala Road Fund Act-2001 to encourage PPP. It has already implemented PPP in tourism, healthcare, IT and

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{70} see http://www.idd.kar.nic.in/ppp-go.html (accessed on 15-03-2013)
\item \textsuperscript{71} see http://164.100.52.24/pdf/karnataka_PPP3Jan2008_komala.pdf (accessed on 15-03-2013)
\item \textsuperscript{72} n. 1, p. 46.
\item \textsuperscript{73} n. 20.
\end{itemize}
\end{footnotesize}
ITES, logistics, food and agro-processing, gems and jewellery. Now, the government wants to promote investments in light engineering and automobile, high-speed trains, industrial ports, science and technology, green energy, port and ship-building, tourism and medical tourism to make it the most preferred IT investment state in the country.\textsuperscript{74}

The Cochin International Airport is the first green field airport built on the PPP route in India\textsuperscript{75} which has become the fourth busiest airport in India. Kerala has around 109 PPP projects,\textsuperscript{76} spread across many sectors such as airports, roads, tourism, urban infrastructure and ports. International Airport Terminal (Trivandrum) Project, Water Supply Scheme (Kannur & Peechi Dam-Chembukkavu Reservoir), Small Hydro Electric (Vllangad) Project, Hydro Electric (Pallivasal) Project, Kochi SBM Project, LNG Terminal (Kochi) Project, Vallarpadam-Edapally Railway Line, and Airport Terminal (Cochin) Project-Modernisation are the completed projects.\textsuperscript{77}

\subsection*{4.2.14 Madhya Pradesh}

MP lies almost in the central India and is rich in mineral resources. It has the largest reserves of diamond and copper in India but is poor in infrastructures. In the last few years, Government of MP (GoMP) has undertaken several measures to boost investment in physical and social infrastructures through PPP mode and developed enabling environment for encouraging PPP in the state.

MP has been the path-breaker in the field of PPP. Even before GoI came out with the scheme of grants for PPP projects, GoMP was funding roads projects from its own resources to make them more viable. PPP in MP started with roads sector project, i.e. 1500 km roads under BOT in 1992 by MP Bridge Corporation. Dewas Industrial Water Supply Project was also one of India’s early water supply projects developed through BOT mode.

The PPP policy is applicable to roads, bridges and bypasses, airports, airstrips and heliports, inland container depots and logistics hubs, industrial parks, theme parks like IT/BT parks, knowledge parks, SEZ and townships, industrial training centres,

\textsuperscript{74} Kerala to adopt PPP mode for all major projects. <http://www.thehindu.com/news/national/kerala/kerala-to-adopt-ppp-mode-for-all-major-projects/article3339825.ece> (accessed on 01-12-2012)
\textsuperscript{76} n.20
\textsuperscript{77} ibid.
power generation, transmission and distribution systems, solid waste management, sewerage and sanitation, tourism and related infrastructure, health, education and any other sector/facility as may be specified for inclusion by the government.\footnote{Policy Framework and Institutional Roadmap for PPP in Madhya Pradesh, GoMP and, Department for International Development, UK, May, 2011, pp. 52-53.}

Directorate of Institutional Finance (DoIF) has been formed to serve as the nodal agency for PPP projects. A PPP Cell under DoIF has been created which constitutes a state level committee for PPP. The committee is chaired by Chief Secretary of GoMP. The PPP Cell offers hand-holding assistance in planning and bidding out PPP projects. Apart from being the nodal agency for PPP projects in the state, it is also responsible for strengthening performance management in government.\footnote{ibid, p. 59.}

MP Infrastructure Investment Fund Board (MPIIFB) has been constituted to mobilise resources for infrastructure projects including roads, irrigation, water supply, solid waste management and drainage or a multipurpose project comprising two or more such areas. MP Project Development Fund (MPPDF) for funding preparatory activities of PPP projects is also constituted.\footnote{ibid, p. 59.}

Around 162 infrastructure projects have been taken up through PPP route with an increasing trend in recent times. The value of these projects is estimated to be more than ₹ 36,788.56 cr.\footnote{ibid, n.20} Most of the projects have been initiated in transport and energy sectors.

Feeder Separation Project (Garoth, Malhargarh, Mandsaur, Sitamau, Neemuch, Manasa & Jawad), High Power Short Circuit Test Facility, Power Transmission (Gwalior City-VIII) Project, Vindhyachal Coal Based Power Project-Stage IV, 1,320 MW Coal Based Power (Sidhi) Project and Gadarwara Coal Based Power Project-Stage I are some of the projects initiated by the government in the energy sector.\footnote{ibid.} Many road upgradation projects have also been initiated in the state.

\subsection*{4.2.15 Maharashtra}

Maharashtra does not have any specific institutional or regulatory framework for PPP across sectors. Presently, individual organisations/agencies are responsible for
carrying out the PPP projects according to their own policies and guidelines and the thrust of PPP in the state have been in port and roads sectors. Currently, PPP Cell acts as the nodal agency and there is now a nodal officer in the state who is responsible for overseeing all PPP projects in the state. A PPP policy has been formulated at the state level and is under the process of approval from the Cabinet Ministers. At present, financial and legal experts are not available and PPP expert and MIS expert have been provided under the ADB Technical Assistance Grant Scheme. An Infrastructure Authority is proposed to be created for facilitating PPP projects. As per existing rules, all the projects costing more than ₹ 25 cr. is to be sent to Cabinet sub-committee on infrastructure chaired by Chief Minister.

The key agency responsible for PPP in ports is the Maharashtra Maritime Board (which is the nodal agency for development of minor Ports in Maharashtra). The PPP projects in the roads sector are under the purview of the Public Works Department (PWD) and the Maharashtra State Road Development Corporation Limited (MSRDC). Planning authorities such as Mumbai Metropolitan Region Development Authority (MMRDA), City and Industrial Development Corporation (CIDCO), Nagpur Improvement Trust and Pimpri Chinchwad Development Authority under the Urban Development Department have implemented PPP projects such as the Mumbai Metro and other urban infrastructure projects.

The state ranks first in the number of projects as around 200 PPP projects\(^83\) are under various stages of implementation as of March 2016 in transport, education, health, tourism, water and sanitation, energy, urban development, etc. Thermal Power (Khaperkheda) Project, Mouda-I Thermal Power Project, Thermal Power (Bhusawal) Project, Airport (Kakadi) Project, Dehali Irrigation Project, Nagan Irrigation Project, Shivan Irrigation Project, Thermal Power (Koradi) Project, Rajura Larger Minor Irrigation Project and Shirapur Lift Irrigation Scheme are important projects under different stages of implementation.\(^84\)

4.2.16 Manipur

The state does not have any PPP policy for infrastructure development though it is very important to boost trade relation, especially with the South-East Asian

\(^{83}\) n.20
\(^{84}\) ibid.
countries. In order to facilitate investment, the state government has set up single-window facilitation with escort mechanism, which provides coordination with departments for all services and clearances that are required for expeditious establishment of industrial units. A Special Cell in the Directorate of Commerce and Industries has been set up to provide the escort mechanism for investments.\(^{85}\) The Government of Manipur is taking up a Bamboo Technology Park at Kadamtala, Jiribam with an estimated cost of US $ 104.29 mn on PPP basis under the SPV mode to set up entrepreneurial cluster-based bamboo processing units, in association with the National Mission on Bamboo Application of GoI.\(^{86}\)

4.2.17 Meghalaya

Though Meghalaya does not have PPP policy, it has 8 projects that are being implemented under the PPP mode. A 100 Tonnes Per Day (TPD) Compost Plant in Shillong and 40 TPD plant in Tura are operational in the PPP mode for safe disposal of solid wastes.\(^{87}\) The government is inviting investments in power especially hydro projects, tourism, urban development and roads through the PPP mode. It is being encouraged by the government to create tourist complexes, eco-tourism, adventure tourism, ethnic culture tourism, health farms, hotels, convention centres, tourist travel services, etc. on PPP mode.\(^{88}\) Azra-Byrnihat BG Railway Line Project, Road Upgradation (Shillong) Project, Jorabat-Shillong NH-40 Road Project and Byrnihat-Shillong Railway Line Project are the projects in transport sector while Myntdu Leshka Hydel Power Project-Stage I, Umtru Hydel Power Project, Ganol Hydel Power Project and Coal Based Power (Lumshmong) Project are in power sector.\(^{89}\)

4.2.18 National Capital Territory of Delhi

The Government of National Capital Territory of Delhi (GNCTD), in the true spirit of Bhagidari, intends to involve the private sector in the development process including infrastructure development. The state has taken a number of development initiatives such as re-development of industrial clusters and maintenance of industrial areas under PPP model. The Planning Department of GNCTD have issued guidelines for participation of private sector in the development, operation and maintenance of

\(^{85}\) *Manipur: Jewel of India*, Indian Brand Equity Foundation, August 2012, p. 35.

\(^{86}\) Ibid., August 2012, p. 38.

\(^{87}\) *Meghalaya: Abode of Clouds*, Indian Brand Equity Foundation, August 2012, p. 21.

\(^{88}\) Ibid, p. 33.

\(^{89}\) n.20
infrastructure facilities through financial sources other than those provided by the state budget by following modern project management systems and for matters connected therewith or incidental thereto. About 17 PPP projects are under various stages of implementation in Delhi costing ₹ 3,824.48 cr. as of December, 2015 in different sectors.\(^90\) The development of 250 Bus Queue shelters, Delhi-Noida Toll Bridge, Delhi-Gurgaon Highway, Vikas Puri-Meera Bagh Corridor Project, Mangolpuri-Madhuban Chowk Corridor Project, Solid Waste Management (Shahdara) Project, Water Supply Improvement (Malviya Nagar) Pilot Project, Integrated Municipal Waste Processing Complex at NDMC Compost Plant site Okhla, Water Supply Improvement (Mehrauli & Nangloi) Project, Modernisation of Delhi International Airport, and International Airport Terminal (Delhi) Project are some of the projects in different sectors.\(^91\)

\subsection*{4.2.19 Odisha}

Being located in the Eastern coastal region of India, Odisha is rich in natural resources and leads in iron, steel, ferro-alloy and aluminium production. In addition, there are abundant water resources, adequate power, a reasonably good road and rail connectivity and port facilities at Paradeep, Gopalpur and Behrabadpur (Baleshwar). Hence, it is an attractive destination for mineral-based industries. Odisha adopted PPP model to leverage scarce state resources, attract private investment and to utilise efficiencies, innovativeness and flexibility of private sector.

To achieve the goals of infrastructure development and efficient delivery of services, Government of Odisha has formulated PPP Policy-2007 which is best suited for the infrastructure sector as it supplements scarce public resources, creates a more competitive environment and helps to improve efficiencies and reduce costs. A dedicated PPP Cell in Planning and Coordination Department has started providing turnkey support to line departments in project identification, prioritisation, feasibility analysis, projects structuring, financing options and bid process management for selection of developers. Separate Project Management Units have also started functioning in various departments. A High Level Clearance Authority (HLCA) under the chairmanship of Chief Minister has been constituted by the government and all PPP projects having investment of over ₹ 500 cr. will require its approval. It has also constituted Empowered Committee on Infrastructure (ECoI) consisting of a group of

\(^90\) n. 20
\(^91\) ibid.
Secretaries under the Chairmanship of the Chief Secretary, which shall be the nodal agency to co-ordinate all efforts of the state government regarding development of infrastructure sectors, involving private participation and funding from various sources entailing investment up to ₹ 500 cr.

A society has been formed and registered in the name titled ‘Odisha PPP Technical Society’ to assist the state PPP Cell and to discharge the functions of the Technical Secretariat as laid down in the Odisha PPP Policy-2007. Many infrastructure sectors are covered by the policy which may be modified from time to time. Roads, bridges and bypass, ports and harbours, airports, airstrips and heliports, solid waste management, education, healthcare facilities, tourism related infrastructure, urban infrastructure, water supply, power generation, transmission and distribution systems are some of them.

In Odisha, 32 PPP projects are under various stage of implementation. Solar Photovoltaic Power (Talcher-Kaniha) Project, Sunakhala-Ganjam NH-5 Road Project, New Domestic Terminal Building at BP Airport, Bhubaneswar, Darlipali Coal Based Power Project-Stage I, Paradip Port Highway Project, Gopalpur and Dhamara Port, and Rupsa-Baripada-Bangriposi GC Railway Line are some of the completed projects in different sectors.

4.2.20 Puducherry

The Union Territory of Puducherry does not have a PPP policy but ‘Puducherry Vision 2025’ highlights that the state should formulate a PPP policy indicating the sectors and sub-sectors in which partnerships are required. It should also specify guidelines and process to be followed for selection of private player and division of roles and responsibilities, key points of contact, models for different projects, the kind and quantum of support the government will provide and inputs that the private partner will need to bring to the table, the prevailing regulatory environment (including legislation) that will govern the concessions and any model agreement formats/templates that will delineate the risks and rewards of various participants. A

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93 n.20
PPP Cell should be set up for exploring opportunities in this area which will work with different departments leveraging on its expertise.

Puducherry aims to develop Premium-category hotels with the aim to attract high value tourists to visit the state. Projects like oceanarium, trade and convention centers, multiplex complexes, science city, five star resort hotels and theme parks are being contemplated on the PPP mode.\(^95\) Only two PPP projects, namely, Pondicherry to Tindivanam Road and Puducherry port are under various stages of implementation.\(^96\) The government is also planning to undertake PPP projects in various sectors like roads, water supply and sanitation, ICT, urban development, etc.

4.2.21 **Punjab**

Punjab, a land-locked state in north India is demonstrating great energy, fresh thinking and political and administrative dynamism in pushing the PPP agenda for development of roads, bridges, education, health, tourism, and other infrastructures.\(^97\)

Punjab Infrastructure Development Board (PIDB) was set up in 1998 by enacting ‘The Punjab Infrastructure Development Bill, 1998’ which is now amended as The Punjab Infrastructure (Development and Regulation) Act, 2002. PIDB is the nodal agency for infrastructure development and provides clear operating guidelines pertaining to projects and concessionaires; the legal basis for grant of concessions; structures of public-private participation; safeguarding interests of stakeholders and dispute-resolution mechanisms. It is a high-powered body with the Chief Minister as the chairman and the Finance Minister as the vice-chairman. The composition of the Board includes the Chief Secretary, the Principal Secretary to the Chief Minister, the Principal Secretary-Finance (as the convener), and the Managing Director of PIDB.

Ministers and Secretaries of concerned departments participate as special invitees. It plays a key role in structuring and financing, engineering, procurement and construction bids under PPP. It also provides VGF up to 40 percent of the project cost for roads and bridges projects taken up on PPP mode.

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\(^95\) *Focus on PPP model to boost tourism*, The New Indian Express, Tamil Nadu, September 7, 2012 <http://newindianexpress.com/states/tamil_nadu/article602036.ece> (accessed on 01-12-2012)

\(^96\) n.20

The state government established Punjab Infrastructure Regulatory Authority to aid and advises the government in the formulation of appropriate policies or guidelines relating to tariff, public hearing regarding the approval of proposed infrastructure projects, to regulate the working of the concessionaire and promote efficient, economical and equitable performance and to adjudicate upon appeal preferred to it against an order passed by the Board or the state government related to the approval of an infrastructure project or the award of a concession.

About 39 projects have been initiated with a total project cost of ₹ 6,489.50 cr. Some of the PPP projects that have been undertaken are Green Field Super Speciality Hospital (Bathinda & Mohali), Ring Road Project (Bathinda), Upper Bari Doab Canal System, Sirhind Feeder Part-II, Solar Photovoltaic Power (Gamiwala & Muradwala Dalsingh) Project, Pathankot-Amritsar NH-15 Road Project, Modernisation of Bhatinda Thermal Power Project, and Development of Modern Bus Terminal at Jalandhar.

4.2.22 Rajasthan

Rajasthan is the largest (area-wise) state in India. The natural resources, policy incentives, strategic location and infrastructure in the state are favourably suited for investments in sectors such as cement, IT and ITES, ceramics, tourism, automotive and agro-based industries. The state offers a variety of unexploited agricultural and mineral resources, which is indicative of scope for value addition and exports.

Rapid economic growth, growing urban population, increasing rural–urban migration, and all-round social and economic development have compounded the pressure on the existing infrastructure and increased the demand–supply gap in the states. The Rajasthan government recognises that constraint-free infrastructure provisioning, both physical and social, fosters economic and industrial activities conducive to development and inclusive growth.

A three-tier institutional mechanism has been established in the state. Empowered Committee on Infrastructure Development (ECoID), headed by the Chief Secretary is constituted to approve the project to be implemented on PPP mode. These projects are finally approved by Cabinet members of the state. PPP Cell, under the direct

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98 n. 97
99 n. 20
100 see http://ppp.rajasthan.gov.in/pppworks/noteonpvtsector_may12.pdf (accessed on 01-12-2012)
supervision of the Principal Secretary, Planning Department, is the state PPP nodal officer who acts as the nodal agency to coordinate and monitor the PPP projects. This Cell serves as the Secretariat of the ECoID and has been strengthened to support departments in project development, appraisal and evaluation. It provides all hand-holding support for development of these projects. The respective Administrative Departments/agencies are the implementing agencies that identify, develop and execute the PPP projects. Respective Administrative Departments have nominated one of the officers as nodal officer for PPP projects.

A new fund titled “Rajasthan Infrastructure Project Development Fund” (RIPDF)\(^\text{101}\) has been created with an initial corpus of ₹ 25 cr. for supporting the development of credible and bankable PPP projects that can be offered to the private sector and the other infrastructure projects wherein GoI reimburses project development expenses.\(^\text{102}\) Rajasthan Social Sector VGF Scheme has already been notified for promoting PPP. It can be in the form of any of the following or a combination thereof:

- Capital Subsidy;
- Interest free or concessional loan;
- Land free of cost or at concessional price on lease basis;
- Building free of cost or at concessional price on lease basis;
- Subsidy in lump sum or related to outputs;
- Norm based recurring expenditure grants;
- Any other appropriate mode of providing support.

Infrastructure Development Act has been drafted which provides an overarching and transparent legislative framework for a level playing field for private participants in the state’s infrastructure development.\(^\text{103}\) The Act lay down the legal basis for grant of concessions to private parties, apart from defining the decision making powers and processes, including with respect to selecting of projects and of concessionaires.

Rajasthan was the first state to formulate a policy for BOT projects in 1994. The Rajasthan Road Development Act, 2002, encourages private sector participation in the construction of financially viable bridges, bypasses, rail over-bridges, tunnels, etc.

\(^{101}\) n. 100
\(^{102}\) ibid.
\(^{103}\) ibid.
There are 88 PPP projects costing ₹ 18,626.54 cr. in the state. The Barsingsar Mine-cum-Power Project, Cold Storage Project (Barmer & (Bhawanimandi), Thermal Power (Chhabra) Project-Unit 3 & 4, Coal Based Power (Kalisindh) Project-Unit 1 & 2, Combined Cycle Gas Based Power (Ramgarh) Project Stage III, Bikaner Bypass Project, Combined Cycle Gas Based Power (Ramgarh) Project Stage III, and Bikaner Bypass Project are the important projects in different sectors of the state.\(^{104}\)

### 4.2.23 Sikkim

Sikkim has successfully undertaken PPP projects mainly in hydroelectric power sectors and is a leading North-Eastern state with 24 different projects. A large number of investors are now interested to promote tourism, power (mainly hydroelectric), health, education and other infrastructure projects through PPP mode.\(^{105}\) Around 23 projects are under various stages of implementation costing ₹ 5,887.97 cr.\(^{106}\) Some of these projects like Jorethang Loop Hydro-Electric Power (Sikkim) Project, Teesta Hydel Power Project Stage V, and Rongli Hydro Electric Power Project are completed projects. Gangtok Bypass Project, Dikchu Hydro Power Plant, Bermelee Khola HEP, Bhasmey Hydro Power Plant, Airport (Pakyong) Project, Teesta III HEP project, Rognichu River Pollution Abetment Scheme (Gangtok) and Rongnichu Storage Hydro Power Plant are some of the projects under construction in different sectors.\(^{107}\)

### 4.2.24 Tamil Nadu

Tamil Nadu (TN) is the southernmost state of India. It is among the most industrialised states in the country. It is one of the first states in India to have 100 percent metalled road connectivity even in the rural areas. The state government has encouraged private sector participation in the process of infrastructure development. TN was the first state in the country to setup a genuine PPP venture for infrastructure development in the year 1998.\(^{108}\) The implementation of “TN Vision 2023” will call for significant institutional reform to accelerate infrastructure development through PPP mode.\(^{109}\)

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\(^{104}\) n.20
\(^{105}\) Sikkim Tourism Policy-2010, Tourism Department, Gangtok, p. 13.
\(^{106}\) n.20
\(^{107}\) ibid.
\(^{108}\) n.78, p. 26.
The state government has framed and notified rules for PPP projects of more than ₹ 25 lakh value to ensure clarity and transparency at every stage that aimed at eliminating delay in entering into a partnership, avoiding troubleshooting and audit objections at later stages. Prior to the TN Transparency in Tenders Act, 1998, the government used to enter into an agreement with a private firm for a PPP project after negotiations, such as new Tirupur area development project.  

The TN government has agencies in different sectors promoting PPP. TN Road Development Company was formed to encourage PPP in roads sector. It is a 50:50 joint ventures between TN Industrial Development Corporation Limited (TIDCO) and IL&FS. It was set up with the objective to catalyse private sector participation and investment in roads sector and is mandated to initiate commercialisation of operations and maintenance of road assets.

In order to attract private capital into urban infrastructure development TN Urban Development Fund was established in 1996. It is the first PPP between government of TN and three financial institutions (viz. ICICI, HDFC, and IL&FS) for providing long term finance for civic infrastructure on a non-guarantee mode. The fund is managed by TN Urban Infrastructure Financial Services Limited (TNUIFSL). It is a Public Limited Company and is a partnership in the urban sector between Government of TN and three all India-Financial-Institutions namely, ICICI HDFC and IL&FS. It undertakes fund management (including the TNUDF) on the basis of management contracts.

TN Urban Development Project (TNUDP) is a state government project with assistance from the World Bank. A part of the project is to enhance the institutional capacity and strengthening the financial and managerial capacities in urban local bodies. Under this project, it has to assist municipalities in raising funds from markets to finance specific infrastructure projects. It also helps local authorities to structure and develop infrastructure projects.

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111 n. 78, p. 27.
112 ibid.
113 ibid.
114 ibid.
The priority sectors identified for PPP are: water supply and sewerage, roads (roads, bridges and flyovers), urban infrastructure, ports and computer literacy in school education. About 75 PPP projects are under various stages of development in the state with the total project cost of ₹ 40,978.24 cr. The successful Tirupur Project (BOOT) is the first PPP experiment in the water sector in the country. The development of Marine Liquid Terminal, Karaikal Port, Tiruchchirappalli-Kurur NH-67 Road Project (NHDP III A), Second Container Terminal (Chennai) Project, Development of Common user Coal and Iron ore Terminal, Tambaram-Tindivanam Road, 100 MLD Sea Water Desalination Plant (Reverse Osmosis), Construction of Additional two lane bridge and improvements to the existing bridge across river Korathalayar, Coal Terminal and IT Expressway (Three-lane carriageway) are some of the projects under operation.

4.2.25 Tripura

Though the state government had not framed any PPP policy but it had completed some projects through PPP route. The Tripura Institute of Paramedical Sciences is the first PPP model paramedical institute of Tripura established in 2009. It was a joint venture between Government of Tripura and Bengal Institute of Pharmaceutical Sciences, Kalyani (WB). The government has established Tele-medicine project under PPP model which has received ‘e-Health World Forum’ award in the category of the ‘Best PPP Initiative’.

The Government of Tripura is encouraging private parties to undertake projects in health, tourism, education, ICT, forestry and other infrastructures in the state as part of PPP initiative. The state government has decided to set up three more professional colleges-dental, ayurvedic and homeopathic under the PPP model. The ayurvedic college will be established at Udaipur, the homeopathic college at Kailasahar in northern Tripura and the dental college in Agartala. Tripura will soon be an ‘educational hub’ for the northeastern states and neighbouring countries, including

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115 n.20
116 ibid.
Bangladesh, with the setting up of several technical, medical and educational institutions under PPP model.\textsuperscript{119}

4.2.26 Uttarakhand

Uttarakhand (Uk) state came into existence on November 9, 2000 and being one of the newest states of the country, needs to develop its infrastructure faster in order to catch up with the other states and world as a whole. Uk PPP Policy-2012 has been published in Government Gazette which discusses a broad range of objectives and vision to attract private players in all round development of the state. It aims to speed up projects and give push to infrastructure facilities in the hill state. The policy intends to create conducive environment for private investments and set up a robust dispute mechanism and regulatory framework for all projects. Under the new policy, all infrastructure projects will undergo rigorous PPP tests to ensure better value for money for the government and stakeholders.\textsuperscript{120}

The PPP policy shall apply to all infrastructure projects including social sectors, primary sector and service industry. The priority sectors covered by the new policy, which may be modified from time to time, are urban development, energy, agriculture and rural development, transport, tourism, trade and industry sectors. Any other sector/facility may be included by the government from time to time.\textsuperscript{121}

The Government of Uttarakhand (GoUk) shall constitute Empowered Group of Ministers (EGoM) consisting of Finance Minister, Planning Minister, Minister for Urban Development, Minister for PWD and one nominated minister under the chairmanship of Chief Minister for approval of all infrastructure projects. Ministers of the concerned Administrative Department shall be non-permanent member. State PPP nodal officer, Principal Secretary (Planning), Secretary (Planning), shall be the member-secretary of EGoM.\textsuperscript{122}

\textsuperscript{119} Tripura to be educational hub for northeast, adjoining countries <http://articles.timesofindia.indiatimes.com/2012-1210/guwahati/35725260_1_tapan-chakraborty-educational-hub-educational-hub> (accessed on 15-03-2012)
\textsuperscript{120} Uttarakhand Public Private Partnership (PPP) Policy-2012, Planning Department, GoUk, 15 October, 2012.
\textsuperscript{121} ibid, pp. 5-6.
\textsuperscript{122} ibid, p. 12.
GoUk shall also constitute Empowered Committee on Infrastructure (ECoI) consisting of a group of Secretaries under the chairmanship of the Chief Secretary for facilitating infrastructure development in the state under PPP. State PPP nodal officer, Principal Secretary (Planning), Secretary (Planning), shall be the member-secretary of ECoI.

The ECoI shall be assisted by a PPP Cell in the Planning Department in undertaking the functions specified under the policy and shall be under the direct supervision of Chief Secretary. The Cell is to be assisted by a Technical Secretariat and other infrastructure project development entities floated by the state government. It will be the nodal agency to receive the proposals in respect of the PPP projects and place them before the ECoI and EGoM for consideration and approval. GoUk shall set up a District PPP Committee at the district level under the chairmanship of Collector, to co-ordinate and facilitate the implementation of infrastructure projects, including facilitation for obtaining clearances and approvals on a PPP route.

Primarily, all PPP contracts would be awarded on the basis of a transparent competitive bidding process, under the ambit of the Uk Procurement Rules-2008 as amended from time to time. For approval of PPP projects costing up to ₹ 5 cr. shall be processed as per existing rules of business mentioned in chapter 6 of Procurement Rules-2008. For PPP projects with project cost of ₹ 5 cr. or more but less than ₹ 25 cr., the Administrative Department shall obtain approval from Expenditure Finance Committee (EFC) who shall forward the project to EGoM along with its recommendation for final approval.

The Administrative Department shall obtain approval from EFC who shall forward it to ECoI and again ECoI to EGoM along with recommendations for projects costing between ₹ 25 cr. to ₹ 250 cr. For the project costing ₹ 250 cr. or more, the Administrative Department shall obtain approval from EFC who shall forward the project to ECoI along with its recommendation. The state Cabinet shall grant final approval to such projects. Only all those projects where investments are above ₹ 250 cr. would have to seek the clearance of the state Cabinet. In earlier cases, even small

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123 ibid, p. 13.
124 ibid, p. 15.
125 ibid, p. 16.
126 ibid.
projects like schools under PPP mode where investments were less than ₹ 25 cr. were taken to the state Cabinet for the final approval. As of March 2016, there were 16 PPP projects in different sectors with a total cost of ₹ 1,002.92 cr.\(^{128}\)

### 4.2.27 West Bengal

The Government of WB is taking up both physical and social infrastructure projects with the objective to enhance the quality of life of the people of the state by providing better and efficient public services through PPP mode. The government opened PPP Cell within Budget branch of the Finance Department, for providing necessary direction and hand-holding support to the departments sponsoring PPP projects. The Finance Secretary shall act as the nodal officer of the PPP Cell and shall be assisted by the Special Secretary. He shall also be assisted by a PPP expert(s), MIS expert, financial expert, public finance expert, legal regulatory expert and other supporting staff to be appointed from time to time.\(^{129}\)

A committee under the chairmanship of the Chief Secretary to be known as Empowered Committee of Secretaries (ECoS) takes up for approval of all the PPP projects costing up to ₹ 50 cr.\(^{130}\) It also considers the PPP projects above ₹ 50 cr. and recommends for approval to the standing committee of the Cabinet on Industry, Infrastructure and Employment that considers for approval of all large value projects under PPP which are above ₹ 50 cr. WB Infrastructure Development Fund (WBIDF) has been set up under the Finance Department to assist selected projects. The fund shall finance the project preparation activities such as conducting feasibility studies, social and environment impact studies, project structuring, development of project documents, etc. It will also assist in capacity building and training.\(^{131}\)

Infrastructure sectors such as health, education, power, tele-communication, transport-waterways, ports, airports and surface facilities such as roads/bridges/ flyover etc., tourism, industrial parks, theme parks, knowledge parks, SEZ and townships, water supply, drainage and sanitation, area development, housing and commercial

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\(^{128}\) n.20

\(^{129}\) see https://wbxpress.com/creation-of-ppp-cell-in-finance-department/ (accessed on 05-01-2016)


\(^{131}\) ibid, pp. 6-7.
development and any other sector/facility as may be included by the government from time to time.¹³²

Around 36 PPP projects are under various stages of implementation in roads, ports, railways, information technology and urban development costing ₹ 19,690.01 cr.¹³³ A large number of roads development projects have been taken up through PPP mode. Palsit-Dankuni NH-2 (Durgapur Expressway) Road Project, Multipurpose berth 4A at HDC Kolkata Port Trust, Mechanisation of HDC Berth No. 2 and 8, Water Supply and Sewerage Systems at Salt Lake, Berth 4 A (Haldia) Project, Kolkata-Durgapur Expressway, O&M and Management of 25 MGD Water Treatment Plant, and Panagarh-Palsit Road are the projects under operation in the state.¹³⁴

Some states like Telangana and Union Territories like Mizoram, Nagaland, Andaman and Nicobar Island (medical college), Dadra and Nagar Haveli (tourism projects), Daman and Diu and Lakshadweep have initiated very few PPP projects and do not have any PPP policies to encourage private investments.

PPP is at infant stage in India. The centre as well as many states has not yet finalised their PPP policy, though many PPP projects are under various stages of implementation, i.e. bidding, construction and operational stages. Since the phase of economic liberalisation, it has been recognised that for creating world class infrastructure, it is necessary to explore PPP in all sectors of infrastructure and PPP models were included in the industrial policies of many states and some states have made separate PPP policies.

PPP policies of centre as well as states have included many sectors like roads, railways, ports, tele-communication, health, education, power, solid waste management, tourism related infrastructure and urban infrastructure. Some sectors like transport, energy, social and commercial infrastructure, and water and sanitation projects have done very good progress compared to limited success in other sectors.¹³⁵ The coastal states have focused on ports development like Container Terminal and Multipurpose Births at Visakhapatnam Port (AP), Mormugao Port Berth no.7, 5 A and

¹³² n. 130, p. 2.
¹³³ n.20
¹³⁴ ibid.
¹³⁵ n. 21.
Public Private Partnership at the National & State Levels, and in Uttar Pradesh

6 A (Goa), Pipavav Greenfield Port and Mundra Greenfield Port (Gujarat).\(^\text{136}\) The land-locked states have concentrated on roads development to get connected from all parts of the country besides other sectors.

There are some states like MP who have executed successful PPP projects even before GoI came out with the scheme of grants for PPP Projects. GoMP was funding roads projects from its own resources to make them more viable. AP is one of the first states to enact AP Infrastructure Development Enabling Act, 2001 which gives guidelines for process of selection of the developer, PPP types and ranges of state support extended to infrastructure projects. The states lack knowledge about PPP and ADB is providing PPP expert and MIS expert under the ADB Technical Assistance Grant Scheme for capacity building.

Many rules and regulations have been amended to pave the way for PPP projects and other rules have to be amended as the government is expanding PPP projects to many other sectors. Recently, the government has decided to implement the PPP model in the coal mining sector. Any plan to bring private participation to coal mining will require the government to amend the Coal Mines Nationalisation Act, 1973, that explicitly bars private players in commercial coal mining.

Many states have developed PPP Cell to administer various proposals and coordinate activities to promote PPP. It is located in different departments of the states like Planning and Development Department (Assam), Finance Department (AP, Haryana and WB), IDD (Karnataka) and Planning Department (Rajasthan and U). It provides competencies and technical support to the ministries and other authorities developing PPP.

Different PPP models have been adopted for different sectors. Depending on the nature of the projects, any models can be adopted. There is no compulsion to focus on any one particular model by the states. The various models adopted for roads sector are BOT, BOT-Toll, BOT-Annuity, DBFOT, and BOOM. In the port sector Lease, BOT, BOT-Toll, BOOT, BOT-Annuity, and BOOM types have been adopted. The projects are selected through competitive bidding process for bringing efficiency and economy, better utilisation of scarce natural resources, attracting best technologies and curbing

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\(^{136}\) n. 21.
corruption. The centre and many states have made PPP websites to provide comprehensive and current information on the status and extent of PPP initiatives. All the information regarding PPP policies, name of the projects, PPP types, their status, i.e. under bidding, construction or operational stages, costs of projects, implementing agencies and other relevant information is put on the websites.

VGF is created to support those infrastructure projects, which are economically justifiable but not commercially viable in the immediate future. Eligible sectors for VGF include roads and bridges, railways, seaports, airports, power and urban transport. The government has taken up several projects under VGF scheme at the centre and states. Recently, the central government granted VGF to the power transmission substation at Jhajjar in Haryana which is the first ever transmission project to get VGF.\(^\text{137}\)

Different institutional framework for PPP projects has been established. At the central level PPPAC for approving PPP projects and Empowered Committee/Institution for approving VGF. PPP financing mechanism includes VGF, IIFCL, IIPDF and institutions like IDFC, IL&FS and other financial institutions including commercial banks. CCoI have been set up for fast-track decisions on infrastructure and manufacturing projects over ₹ 1,000 cr. Many states have also instituted institutional frameworks to efficiently run PPP projects.

Road projects account for more than 50 percent of the total number of projects and also by total value. Ports though account for 9 percent of the total number of projects have a larger average size of project and contribute 14 percent in terms of total value. The roads and bridges sector has the largest number of projects numbering 694 projects followed by ports (116), renewable energy (106), solid waste management (57), urban public transport (55) and Electricity generation (grid) (27) as on March 2016.\(^\text{138}\)

No development process can succeed without equal participation from every segment of the society. PPP is the need of the hour. However, the current PPP model is full of flaws which are affecting its rate of success. There is a need to frame the central

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\(^\text{138}\) n.20
PPP policy immediately which will acts as a guidelines for other states to bring uniformity in PPP policies and institutional frameworks. Different states have different mechanism for PPP projects which gives rise to conflict of interest. There is a lot of litigation in PPP projects as the liabilities of the government and the private sector are not clearly defined.

4.3 Public Private Partnership Initiatives in Uttar Pradesh

In this part, a brief sketch has been presented about the initiatives taken by the Government of Uttar Pradesh (GoUP) in promoting PPP to boost the socio-economic development of the state. A brief introduction about the concept of PPP, the rationale for PPP in the state, the advantages, criticisms and the challenges faced, institutional policy and legal framework, procurement process, etc. have also been discussed in the part.

4.3.1 Public Private Partnership: The Concept

A PPP is a legally binding contract between government and business for the provision of assets and the delivery of services that allocates responsibilities and business risks among various partners. PPP patterns are becoming a common tool to bring together the strengths of both sectors by way of maximising the efficiency and innovations of private enterprise besides providing much needed capital to finance government programmes and projects, thereby freeing public funds for core economic and social programmes. Generally, PPP fill the space between traditionally procured government projects and their full privatisation.

PPP are also called by different names throughout the world. P3\textsuperscript{139} (North America), Privately-Financed Projects (Australia), Private Finance Initiative (PFI) in United Kingdom (UK) (from where this term originated) and is also used in Japan and Malaysia by the same terminology, Private Participation in Infrastructure (PPI) coined by the World Bank, P-P Partnership (in order to avoid confusion from Purchasing Power Parity and Private-Sector Participation which is used in the development-banking sector). In India as well as in UP, generally PPP is used.

The public sector includes all agencies under the government’s budgetary control whereas private sector includes both profit and non-profit agencies. The non-profit

agencies are the NGO’s. The term private in PPP comprises of all non-government agencies such as the corporate sector, self-help groups, voluntary organisations, partnership firms, individuals and community based organisations.\textsuperscript{140} Moreover, it subsumes all the objectives of the services being provided earlier by the government, and is not intended to compromise on them. PPP can be described as “the future for infrastructure projects”.\textsuperscript{141}

There is no single, internationally accepted definition of PPP. The term is used to describe a wide range of agreements between public and private sector entities, and various countries have adopted different definitions of PPP according to their functioning, ruling and processing. Nonetheless, these definitions are centered on a common understanding of a PPP as a long-term contract between a government and a private entity for provision of a public service. The ambiguity of the term “PPP” leaves a lot of room for misconceptions and can result in widely differing interpretations.

The guidelines for the Viability Gap Funding (VGF) scheme of MoF, GoI- ‘Guidelines for Financial Support to Public Private Partnerships in Infrastructure’ defines “PPP as a project based on a contract or concession agreement, between a government or statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges”.\textsuperscript{142}

The scheme and guidelines for the India Infrastructure Project Development Fund, issued by MoF, GoI defines PPP as “Partnership between a public sector entity (sponsoring authority) and a private sector entity (a legal entity in which 51% or more of equity is with the private partner/s) for the creation and/or management of infrastructure for public purpose for a specified period of time (concession period) on commercial terms and in which the private partner has been procured through a transparent and open procurement system”.\textsuperscript{143}

The contemporary thinking on PPP is reflected in countries like UK, South Africa and Australia. In UK, PPP are arrangements typified by joint working between the


\textsuperscript{141} see http://construction.about.com/od/Trends/tp/Understanding-Public-Private-Partnerships.htm (accessed on 28-10-2013)

\textsuperscript{142} Discussion Note on “Approach Paper on Defining Public Private Partnerships”, GoI, Ministry of Finance, Department of Economic Affairs, February 2010, p. 11.

\textsuperscript{143} ibid.
Public and private sectors. In the broadest sense, PPP can cover all types of collaboration across the interface between the public and private sectors to deliver policies, services and infrastructure. Where delivery of public services involves private sector investment in infrastructure, the most common form of PPP is the PFI.\footnote{144}

According to International Monetary Fund (IMF 2006),\footnote{145} PPP refers to arrangements where the private sector supplies infrastructure assets and services that traditionally have been provided by the government. In addition to private execution and financing of public investment, PPP have two other important characteristics: there is an emphasis on service provision, as well as investment, by the private sector; and significant risk is transferred from the government to the private sector. PPP are involved in a wide range of social and economic infrastructure projects, but they are mainly used to build and operate hospitals, schools, prisons, roads, bridges and tunnels, light rail networks, air traffic control systems, and water and sanitation plants.

However, while certain advantages do exist and can be harnessed, PPP should neither be regarded as representing a miracle cure nor indeed a quick fix to infrastructure and service development. It should be regarded as an option amongst a range of possible tools to be applied only where the situation and project characteristics permit it and where clear advantages and benefits can be demonstrated. However, it does not mean reduced responsibility and accountability of the government but it remains accountable for service quality, price certainty and cost effectiveness of the partnership.

As the meaning of PPP is not clearly defined or its numerous forms are not available to government, there is a common misconception about it. One of the main misconceptions about PPP is that it is the same as privatisation. By entering into PPP, government loses some control over the provision of services. It applies only to infrastructure projects. The governments enter into it basically to avoid debts. It is said that the quality of service declines under PPP. The private companies are not accountable to the public and thus, may cut corners or allow projects to deteriorate. The procurement of projects is often secretive and lack transparency. They also substantially compromise with environmental protection. They are comparatively more

\footnote{144}{see http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/documents/public_private_partnerships/ppp_index.cfm (accessed on 28-10-2013)\footnote{145}{n. 142, p. 12.}}
expensive and lead to excessive profits to private partners. In this situation, the cost of service will increase to pay for the private partner’s profit.\textsuperscript{146} So, PPP is not a simple outsourcing of functions where substantial financial, technical and operational risk is retained by the institution. It is not a donation by a private party for a public good and does not constitute borrowing by the state.

PPP in UP is in a nascent stage. Though India’s first major successful PPP in roads sector came during 1990’s in the form of US$100 mn\textsuperscript{147}, Delhi-Noida toll bridge project that was implemented on a BOOT framework on the basis of a 30-year concession. On seeing other states’ initiatives, the state government has also taken several initiatives in the last few years to develop infrastructure through PPP mode and created an enabling environment for encouraging it in the state.

The GoUP has proposed various measures in “Infrastructure and Industrial Development Policy-2012” for encouraging PPP model in the state. It highlights that improvement in infrastructure facilities is an integral factor for industrial development. To cater to the infrastructure needs of the state, it is not possible to meet the financial requirements with budgetary provisions of the government alone. Additionally, to develop high end infrastructure facilities, large scale capital investment along with high quality management and competence is required. Therefore, to encourage large scale investment in the state, private sector partnership is being ensured in the execution of various infrastructure projects. The introduction of international level access controlled expressway network, high capacity power stations and world class airport projects under PPP will enable all round development of the state.\textsuperscript{148} In an attempt to ease the access and reach of reputed industrialists and key officials of industrial associations to state government offices, the state government has issued a government order to provide them with a facility of ‘Golden Card’.\textsuperscript{149} The government of India had also

launched an ‘eBiz portal’ that aims to create a business and investor-friendly ecosystem in India by making all business and investment-related regulatory services across central, state and local governments available on a single portal, thereby obviating the need for an investor or a business to visit multiple offices or a plethora of websites.¹⁵⁰

4.3.2 Difference between Public Private Partnership and Privatisation

PPP is very often used as a synonym of, and sometimes mistaken for, privatisation which usually involves withdrawal of the government in market-based operations. The private sector involvement in the delivery of public goods or services makes PPP indisputably and confusingly similar to privatisation. But, there is clear distinction between these two concepts. The vital distinction between PPP and privatisation relates to ownership of an infrastructure asset or facility. When a publicly-owned asset or facility is privatised, the ownership is permanently transferred to the private sector except, regulatory control, whereas in PPP projects, government retains ownership as well as defines the extent of private sectors’ participation. In PPP, risks are assumed by the party that is best able to manage and assume the consequences of the risk involved while in a privatised asset, the private sector assumes all risks associated with the project.¹⁵¹ Privatisation has a form of principal-agent relationship while PPP is a partnership based on mutual trust and cooperation. The main idea behind privatisation is to improve efficiency, to make service quicker and cheaper whereas PPP is concerned with effectiveness, synergy and quality of the output. The government remains accountable to its citizens for the provision of a particular service in a PPP project. In privatisation, accountability to provide service is often transferred to the private sector.

4.3.3 Rationale for Public Private Partnership in Uttar Pradesh

Even after the implementation of eleventh FYP, UP has not yet found a complete answer to its persisting problems of poverty, unemployment, illiteracy, malnutrition, housing, sanitation, under development and poor delivery of services. The rapid economic growth, increasing rural-urban migration, growing population and all-round social and economic development have compounded the pressures on the existing

¹⁵¹ Difference between PPP and privatization according to Osborne <http://www.ukessays.co.uk/essays/economics/difference-between-ppp-and-privatization-according-to-osborne.php> (accessed on 28-10-2013)
infrastructure. This has led to greater demands for better quality and coverage of water and sanitation services, sewerage and drainage systems, solid-waste management, roads, power supply, and so on. The government is also experiencing increasing pressures from citizens, civil society organisations and the media to provide accessible and affordable infrastructure and basic services. The government finds itself to be incapable of fulfilling all the needs of the citizens. Hence, the government is adopting PPP model for providing various services to the people. A closer partnership between the public and private sectors can support sustainable development, reduce poverty and ultimately foster greater prosperity. For example, rural roads, NH, irrigation networks and power grids have the potential to connect poor rural producers to markets in towns, cities and ports.

The biggest rationale in favour of PPP is that the government faces acute resource crunch. Much reliance on public funds alone would choke off the growth even before it could have taken off. The state depends on central government to fulfill its budgetary constraints. The central government cannot help it much as it too has limited financial resources. Therefore, there is an inadequate financial aid from the central government which follows different criteria for the allocation of funds. This has given rise to centre-state conflicts. Financial aid from international organisations has difficult terms and conditions, and higher interests. So, PPP provides a viable solution to the budgetary constraints in the state besides providing technical expertise and execution capacity. The state has weak tax base as most of the people are poor and the government cannot charge higher taxes from them. The state of U.P. is also comparatively deficient in mineral resources. Most of the people depend on agriculture for their livelihood. Agriculture is not very productive because most of them practice subsistence agriculture and have less than 0.1 ha of land for cultivation, even though the state lies in fertile Gangetic plain. The central government has issued a framework on PPP for Integrated Agricultural Development (PPPIAD) under the Rashtriya Krishi Vikas Yojana (RKVY) to state governments. They have been asked to leverage funds of RKVY to attract private investment in agriculture and value chain integration.152

In UP, there has been political instability and successive change in governments since 1990’s. The government initiates programmes in the state, but the next coming government in power changes many policies and programmes of the previous government. Most of the running programmes are either stopped or closed. The coming in power of Akhilesh government in 2012 discontinued Mayawati’s government Bhimrao Ambedkar Tubewell Schemes (special component plan), and Ambedkar Collective Tubewell Scheme for construction of tube wells. Instead, it gave nod to the proposal for launching Ram Manohar Lohia Community Tubewell scheme. It also closed several schemes like Savitribai Phule Balika Madad Yojana and relaunched Kanya Vidyadhan scheme which was closed by the Mayawati government. All these actions amount to huge losses for government revenues. The PPP projects are for long term, i.e. for 20-30 years, and so there is less chance of annulling the programmes as it will discourage private investments in future. PPPs have demonstrated the ability to harness additional financial resources and operating efficiencies inherent to the private sector.153

The UP state has the highest population in the country and its population is nearly the same as that of Brazil. The needs and demands of the population are enormous and are increasing day by day. The state government is incapable in fulfilling all the demands and needs of the people which creates unrest in the society. There is shortage of infrastructure like schools, hospitals, roads, drinking water supply and sanitation that requires huge amounts of finances which can be supplemented by private players. As the majority of people are poor and have to work hard throughout the day to fulfill their daily basic needs. Most of them even do not have a roof over their heads and live in open sky. The government had initiated many programmes like; building rural houses, roads, health institutions, pure water supply and sanitation for the poor but fell short of achieving its goals. PPP can help with its financial and technical expertise and also provide employment to people.

The delivery of public services has also become very poor and inefficient resulting in growing discontentment among people that result in rising crime rate. Many Public Sector Undertakings (PSUs), which were established during the Nehruvian socialist era, faced huge competition in the 1990s, post-liberalisation phase,
and lost heavily due to competition and have became non-performing assets. 82 PSUs of UP have witnessed an increase of 300 percent deficit between 2004 and 2010.\footnote{Loss making state PSUs fail to meet expectations <http://post.jagran.com/sakhi-loss-making-state-psus-fail-to-meet-expectations-1303372924> (accessed on 28-10-2013)} This can be revived with the help of PPP. There is also an expectation that the involvement of the private sector in the financing of infrastructure and services will increase accountability and transparency, reduce corruption among political leaders and officials and create incentives for the prudent management of public expenditure. PPP, through its finances, risk transfer, technology, management skills and efficiency also offers a useful tool in addressing the challenges of climate change.

### 4.3.4 Advantages of Public Private Partnership

PPP can be the solution to financing problems, employment generation, and investing in large projects without sacrificing the government finances. The main advantages of PPP are as follows.

#### 4.3.4 (i) Easing Budgetary Constraints

PPP enables developing projects at little or even no expenses on the part of the state budget through private-sector financing. The government is always short of finances because of populist welfare measures, huge population, infrastructure gaps, and also due to many other reasons. The allocation of funds from the central government is not sufficient in solving the state budgetary constraints. The loans taken by the state from various institutions puts pressure as interests have to be paid against these loans. So, it can be an alternative solution in solving the budgetary constraints of the state and transferring the cost of service provision to users by charging rates close to real costs. The projects can thereby be developed without increasing debt exposure or overextending the national budget. In ‘UP Infrastructure and Industrial Investment Policy-2012’, the government has encouraged to build infrastructures through PPP model to solve the budgetary constraints.

PPP allows the capital cost of a public sector facility to be spread out over its life, rather than acquiring it to be charged immediately against public budget. This cost is then either (for the concession model) paid for by users instead of paying taxes, or (for
the FPI model) charged to the public sector budget over the life of the PPP contract, in either case through payment of service fees.\textsuperscript{155}

4.3.4 (ii) Acceleration of Infrastructure Provision

There is a faster implementation of infrastructure projects through PPP even when the availability of public capital may be constrained. In India as well as in UP, there is a huge shortage of infrastructure. With the adoption of this model, many infrastructures like highways, roads, schools, hospitals, airports, etc. are under various stages of implementation as PPP can mobilise additional sources of funding and financing for these infrastructure projects.

4.3.4 (iii) Faster Implementation

Due to the availability of adequate funds, technological know-how and skills, there is fast implementation of infrastructure projects, once allotted on competitive bidding. It provides significant incentives to the private sector for delivering projects within shorter construction timeframes. If the projects are taking too much time, the cost will increase with time and it may not be much profitable to the private sector in the long run.

4.3.4 (iv) Reduced Whole Life Costs

PPPs are long term projects i.e., 25-30 years. PPP projects which require operational and maintenance service provisions, provide the private sector with strong incentives to minimise costs over the whole life of a project, something that is inherently difficult to achieve within the traditional public sector budgeting. The cost reductions in the projects have been attributed to synergies, economies of scale, better utilisation of scarce resources, construction techniques and operational practices.

4.3.4 (v) Better Risk Allocation

Generally, the risks are exchanged between the public and private sectors in PPP projects. The particular project risks are allocated to the partner best able to manage that risk cost-effectively, taking into account public interest considerations. It is very important for the success of any project. There are many types of risks during various stages of project implementation. The risks in PPP can be managed both by allocating

\textsuperscript{155} n. 139, p. 17.
foreseeable risks to the party best able to bear them, and through the creation of durable partnerships committed to the cooperative resolution of unforeseen risks.

4.3.4 (vi) Better Incentives to Perform

Since, there is a division of responsibilities between public and private sectors, if any fault committed, one of the two can be responsible for the failure. The allocation of risks to the private sector motivates it to improve its management and performance on any given project as full payment to the private contractor will only occur if the required service standards are being met on an ongoing basis.

4.3.4 (vii) Improved Quality of Services

In PPP, there is a greater possibility of improved quality of services provided by the private sector. This may be reflected in better integration of services with supporting assets, improved economics of scale, the introduction of innovation in service delivery, or the performance incentives and penalties typically included within a PPP contract. For example, if roads are constructed under BOT type, it has to be operated by the private sector only till the contract period. They will use good quality of material for constructing roads, otherwise they have to pay for any wear and tear and the projects will not be profitable to them in the long run.

4.3.4 (viii) Greater efficiency in the use of Resources

A well-managed PPP preparation and bidding process can enable more efficient use of scarce resources over the lifetime of the asset, as the private partner has an incentive to consider the long-term implications of the costs of design and construction quality or the costs of expansion in the case of existing facilities. At the same time, the long-term nature of the contract can generate greater certainty (or even a reduction) in the price of service delivery, in real terms.

4.3.4 (ix) Accelerated Delivery

The contracts generally have incentive and penalty clauses vis-a-vis implementation of capital projects that lead to accelerated delivery of projects. The principle of ‘no service-no payment’ ensures that the private sector is greatly encouraged to deliver on time. PPP imposes a structure and a set of clearly defined and

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agreed timescales. PPP contracts also provide clear mechanisms for dealing with variants and delay events. This has an added advantage to private players in terms of substantial cost savings.

4.3.4 (x) Value for Money

The private sector brings more commercial approach to projects because of their expertise. Value for money projects deliver greater profitability for a given level of investment in comparison with that of an equivalent asset procured conventionally. This value for money may take the form of the delivery of service at a lower cost, less exposure to risk and hence, certain financial gains, or increased benefits to the end-user.

4.3.4 (xi) Modernisation of the Economy

PPP accelerates projects implementation with the introduction of new technology. It gives emphasis to service quality and the projects are better able to respond to demand, and accept fast to the changes in demand, thereby giving rise to a more dynamic modernisation of the economy.\textsuperscript{157}

4.3.4 (xii) Tackling Corruption

A customised and well monitored PPP could be used to tackle corruption. There is a greater transparency and openness in procurement and implementation of the projects. The PPP guidelines for projects had included a provision for voluntary disclosure of information relevant to beneficiaries. The policymakers have called for bringing PPP projects under the purview of the Right to Information. The G\textsuperscript{20} have encouraged this model and offers a significant opportunity for developing and implementing initiatives that engage the private sector in the global fight against corruption.\textsuperscript{158}

4.3.4 (xiii) Transfer of Technology

PPP projects serve to attract high level experts who have already acquired broad international experience in legal, financial, technical and other fields. This transfer of technology helps in construction and operating systems, projects and operational management, financial engineering, institutional engineering, etc. or learns how to use


more up-to-date technologies and acquire useful management skills. This has an impact not only on local firms but also on the administrative agencies responsible for monitoring the projects, local financial institution and other context-specific actors.

4.3.4 Project Stability

As the concession agreements under PPP are signed for periods exceeding the terms of elected representatives which results in public services to be less sensitive to both direct and indirect political pressures. The parameters of maintenance and quality of service are less likely to be subjected to any uncertainty. It also provides stability to the shareholder structure.

4.3.5 Criticisms of Public Private Partnership

The involvement of private sectors in PPP projects simply gives rise to many criticisms. It is regarded as another way of privatising a service and asset. It is often seen by organised labour as resulting in job loss, poor quality and lack of oversight. The risk is generally borne by public sector in the event of cancellation or discontinuance of projects. For example, in Delhi airport metro project, the Delhi Metro Rail Corporation (DMRC) which built the metro rail and spent over half of the ₹ 5,700 cr project cost, and Delhi Airport Metro Express Private Ltd. (DAMEPL), that had brought in the rolling stock and accepted to run it for 30 years, terminated itself from the project as they were unwilling to operate the metro rail service when they found the returns on their investments were not up to their expectations. They had taken the operational risk for profit motive. Consequently, DMRC decided to operate the metro line itself in public interest.

The public sector loses managerial control, till the concession period is completed meaning that the public sector has very limited ability to intervene, as long as services are being delivered. They cannot go against the contract that has been agreed upon between the partners as it will discourage private investments in future. The private sector is given full freedom to run the allocated tasks without any interference by the government.

Another criticism is that PPP procurement process is time consuming and expensive. In UP, the very first step is the identification of projects by the concerned departments and placing it before Bid Evaluation Committee (BEC) for its acceptance/rejection and then, takes the approval of the cabinet. After its approval, the
selection of consultants and developers also takes a lot of time. The negotiations between partners for the transfer of risks, financial and technical aspects too take much time. All these steps are important for the success of the projects in the long run but, taking of too much time increases the cost of the projects.

In PPP, there is a lack of accountability and responsiveness than under traditional methods of procurement where lines of accountability are more direct and immediate i.e., to government ministers. The private partners do not take responsibility for the welfare of the society as they are guided by profit motives. They also leave the projects mid-way when they are not profitable. There is also a criticism about toll/user charges which are very high and not in line with the government rules. According to the NHAI rules, a toll bridge cannot be established within a 10-km radius of any municipal body but many toll plazas have been constructed flouting this rule.

4.3.6 Challenges of Public Private Partnership in Uttar Pradesh

Many challenges are being faced by UP in the initial phase of the PPP projects. The state does not have a clear PPP policy and regulatory framework. There have been protests against the projects by the people of the area as they consider it as privatisation of public assets. Some of the main challenges in the state are as follows:

4.3.6 (i) No Public Private Partnership Policy/Regulatory Framework

The GoUP is focusing on PPP projects for accelerated infrastructure development to improve the socio-economic conditions of people. Many projects have been initiated without formulating the policy. This creates problems such as public protest against land acquisition, delay, cost overruns, changes in the conditions of the contracts and terms of the concessions, etc. Public opposition has led to many cancellations, both before and after the concession is awarded.

4.3.6 (ii) Lack of Experience in Commercial, Technical, Legal and Political aspects of Public Private Partnership

The GoUP taking successful examples of PPP in infrastructure development from states like MP, Odisha, Gujarat, etc. also started many projects without any knowledge about legal, technical and commercial aspects of this model. Its success is dependent on PPP expertise. The projects are under the generalist bureaucrats who lack adequate knowledge about PPP basics. The ADB is providing PPP expertise and Management
Information System (MIS) expert under the ADB technical assistance grant scheme for capacity building.

4.3.6 (iii) Lack of Proper Risk Assessment

As the states lack adequate knowledge about PPP, proper risk cannot be allocated between the partners that create many hindrances in the success of the projects. There are allegations and counter-allegations between the partners. The projects are left midway by the partner that leads to loss of revenue to state as was experienced in the case of Delhi airport metro line.

4.3.6 (iv) Public Private Partnership Procurement is Lengthy and Costly

The procurement process is lengthy in UP and takes more than a month as it has to get the approval from many departments. The initiation of projects, pre-feasibility and feasibility studies, selection of consultants and developers, final approval by the competent authority, etc., takes too much time as can be seen in annexure-III. As there is no clear PPP policy, it gave rise to many problems like cost overruns, disputes among the partners, problems in land acquisition, public protest against the projects before and after the project completion, etc.

4.3.6 (v) Policy Instability

There has been an unprecedented political instability in UP since 1990’s, either there has been President’s rule or frequent changes of government. The changes of government in UP either discontinue/close the programmes or restart/start new programmes for political reasons. This has lot of repercussions on private players and discourages them for taking new projects. The long term projects are also terminated that amounts to loss of state revenue and scarce resources.

4.3.6 (vi) Protest against Toll/User Charges/Land Acquisition

In UP, \(^{159}\)Bharat Kisan Union activists took over toll plazas near Garh Mukteshwar on NH-24 and Dasna toll plaza in Ghaziabad, removed barriers of the toll plaza on NH-58 (Daurala) near Meerut and threatened to take more toll plazas in other parts of the state. This caused an approximate loss of ₹ 25 lakh every day. According to the NHAI rules, a toll bridge cannot be established within a 10-km radius of any toll plaza.

\(^{159}\)UP farmer’s stir may take toll on highway projects <http://bhartiyakisanunion.blogspot.in/2012/12/up-farmers-stir-may-take-toll-on.html> (accessed on 28-10-2013)
municipal body. The Dasna toll bridge is hardly two kms. from Ghaziabad municipal limits. They were against the wrong policy of the government that allows toll operators to charge hefty user fee from locals who use the highway for 5-10 km. They were demanding for a policy that provides free passage and special discount for vehicles owned by people living close to the toll plazas.

The public protest against land acquisition is due to lack of adequate compensation and rehabilitation. The prices for land were given below market price and fertile lands were taken away from the people. They even do not consult the public about compensation, resettlement and rehabilitation. Now, the central government has framed “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill-2012” that stipulates mandatory consent of at least 70 percent for acquiring land for PPP projects and 80 percent for acquiring land for private companies. In case, the land remains unutilised after acquisition, the new Bill empowers states to return the land either to the owner or to the state land bank.\(^\text{160}\) Still, there is no guarantee of jobs in relief and rehabilitation package, the compensation are calculated according to circle rates which is much less than market prices, no any protection to farmland, state government decided that if acquired-land if not used, it should be returned to the farmer or added to its land bank.\(^\text{161}\)

4.3.6 (vii) Lack of Information

The PPP programmes lack a comprehensive database regarding the projects/studies to be awarded under it. An online data base, consisting of all the project documents including feasibility reports, concession agreements and status of various clearances and land acquisitions will be helpful to all bidders.\(^\text{162}\) The GoUP had created a website named ‘Udhyog Bandhu’ and ‘Nivesh Mitra’ which provides all information about the state government initiatives in industrial development.

4.3.6 (viii) Financing Availability


\(^{162}\text{Ernst and Young Report on Accelerating public private partnerships in India, p. 11< http://www.ey.com/Publication/vwLUAssets/Accelerating_PPP_in_India/$FILE/Accelerating\%20PPP\%20in\%20India%20-%20FINAL(Secured).pdf > (accessed on 28-10-2013)}\)
The financing of a project are made up of different amounts of debt and equity, the source and structure vary depending on the project.\textsuperscript{163} The private sector is dependent upon commercial banks to raise debt for the PPP projects. With commercial banks reaching the sectoral exposure limits, and large Indian infrastructure companies being highly leveraged, funding the PPP projects is getting difficult.

4.3.6 (ix) Lack of Institutional Capacity

The limited institutional capacity to undertake large and complex projects at various central ministries and especially at state and local levels hinder the translation of targets into projects.\textsuperscript{164} There is no PPP Cell in the state that would assist different government departments in identifying, conceptualising and creating shelves of projects and also assist them in preparing detail project reports and tendering process. There is also no PPP tribunal to settle the disputes in time.

4.3.7 Models of Public Private Partnership

The PPP model of investing in public infrastructure is of recent origin in India. It can be classified into five broad categories in order of generally (but not always) increased involvement, duration of contract and assumption of risks by the private sector.\textsuperscript{165} These models vary from short-term simple management contracts (with or without investment requirements) to long-term and very complex BOT form, to divestiture. The five broad categorisations of participation are:\textsuperscript{166}

i. Management Contracts

ii. Turnkey

iii. Affermage/Lease

iv. Concessions

v. Private Finance Initiative (PFI) and Private ownership

A key component of the PPP models is to lay out clear procedures on how the overall process of PPP project identification, structuring, and implementation would be managed. Various models are adopted by the government due to a range of factors. These includes the sector in which the project takes place, the risks associated with that project, whether the infrastructure is capable of generating revenue itself or will always

\textsuperscript{163} n. 162.

\textsuperscript{164} ibid.

\textsuperscript{165} \textit{A Guidebook on Public-Private Partnership in Infrastructure}, Economic and Social Commission for Asia and the Pacific, United Nations 2011, p. 4.

\textsuperscript{166} PPP models < http://assamppp.gov.in/pppmodels.pdf > (accessed on 28-10-2013)
be provided at a net cost to government, whether there are opportunities for non-
government use of the infrastructure, whether there are aspects of the project owned or
controlled by government (for example, land), and whether there is competition as to
the infrastructure and the need to regulate access and pricing.\footnote{Graeme Hodge and Carsten Greve, ed., *The Challenge of Public–Private Partnerships: Learning from International Experience*, UK, 2005, p. 63.} Besides these, the legal
framework within which a PPP project operates will also be a determinant of the
optimal model. Many legal issues like taxation, insurance, environmental, property,
industrial relations and constitutional law should also be considered to ensure sufficient
clarity, continuity and security to all partners in PPP projects.

**4.3.7 (i) Management Contracts**

A management contract is a contractual arrangement for the management of a
part or whole of a public enterprise by the private sector, usually for two to five years.
It is the least complex of all PPP models. It allows private sector skills to be brought
into service design and delivery, operational control, labour management and
equipment procurement without assigning any commercial risks. However, the public
sector retains the ownership of facility and equipment. The private party can be paid
either on a fixed fee basis or on an incentive basis where they receive premiums for
meeting specified service levels or performance targets. There are several variants
under the management contracts including:

- Supply or service contract
- Maintenance management
- Operational management

**4.3.7 (ii) Turnkey**

It is a traditional public sector procurement model for infrastructure facilities. It is
also known as Design-Build. Generally, a private contractor is selected through a
bidding process that designs and builds a facility for a fixed fee, rate or total cost,
which is one of the key criteria in selecting the winning bid. The contractor assumes
risks involved in the design and construction phases. The scale of investment by the
private sector is generally low and for a short-term. Typically, in this type of
arrangement, there is no strong incentive for early completion of a project.
4.3.7 (iii) Affermage/Lease

In this category of arrangement, the operator (the lease holder) is responsible for operating and maintaining the infrastructure facilities (that already exist), and services. However, often this model is applied in combination with other models such as Build-Rehabilitate-Operate-Transfer (BROT). In such a case, the contract period is generally five to fifteen years and the private sector is required to make significant investment. The operational risks are transferred to the operator.

The arrangements in an affermage and a lease are very similar. The difference between them is technical. Under a lease, the operator retains revenue collected from customers/users of the facility and makes a specified lease fee payment to the contracting authority. Under an affermage, the operator and the contracting authority share revenue from customers/users. An affermage/lease contract is similar to a concession, but with the government typically remaining responsible for capital expenditures.

4.3.7 (iv) Concessions

The concept of a ‘concession’ was first developed in France. These agreements enable a private investment partner to finance, construct, and operate revenue generating infrastructure improvement in exchange for the right to collect the associated revenues for a specified period of time. The concessions can be awarded for the construction of a new asset or for the modernisation, upgradation, or expansion of an existing facility. This can be extended for a period of 25 to 30 years, or even longer, and are awarded under competitive bidding conditions. The ownership of all assets, both existing and new, remains with the public sector. These concessions are more focused on outputs i.e., the delivery of a service in accordance with performance standards.

The concessions may be awarded to a concessionaire under two types of contractual arrangements:

- Franchise
- BOT type of contracts

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168 n. 166.
Franchise contract was introduced in New York City in the 1820 for gas and in the 1830 for street railway transportation.\textsuperscript{169} Under this, the concessionaire provides services that are fully specified by the franchising authority. The private sector carries commercial risks and may be required to make investments.\textsuperscript{170}

BOT has following variants: Design-Build-Finance-Operate (DBFO), Design-Build-Finance-Operate-Maintain-Transfer (BFOMT), BROT, Design-Build-Operate-Maintain (DBOM), Buy-Build-Operate (BBO), Build-Own-Operate-and-Transfer (BOOT), Build-Transfer-and-Operate (BTO), Build-and-Transfer (BT), BOT Annuity, Build-Lease-and-Transfer (BLT), Rehabilitate-Operate-and-Transfer (ROT), Rehabilitate-Own-and-Operate (ROO), etc.

\textbf{4.3.7 (v) Private Finance Initiative (PFI) and Private Ownership}

In this form of participation, the private sector remains responsible for design, construction and operation of an infrastructure facility and in some cases the public sector may relinquish the right of ownership of assets to the private sector. The public sector purchases infrastructure services from the private sector through a long-term agreement. This form of contractual agreement reduces the risks of cost overruns during the design and construction phases or of choosing an inefficient technology, since the operator’s future earnings depend on controlling the costs. Asset ownership at the end of the contract period is generally transferred to the public sector. This model is most suitable for social sector infrastructure projects (schools, dormitories, hospitals, community facilities, etc.).

There can be three main types under this form:

- Build-Own-Operate type of arrangement
- Private Finance Initiative (a more recent innovation)
- Divestiture by license or sale

The GoUP in Schedule II of the “Guidelines for Selection of Consultants & Developers for PPP Projects in Uttar Pradesh-2016” has highlighted in detail the nature of concession agreement (annexure-IV).\textsuperscript{171}

\textsuperscript{169} n. 167, p. 165.
\textsuperscript{170} n. 166.
4.3.8 Risk Allocation in Public Private Partnership

The proper allocation of risk between public and private partners is an important factor in the success or failure of any PPP projects. A risk is any factor, event or influence that could threaten the successful completion of a project in terms of time, costs, quality of assets and services or expected returns. It is more complex and is at the heart of any PPP contract design. It is inherent in all PPP projects and can occur at various stages in the overall process of formalising a PPP agreement. There have been various identified risks prevalent in different PPP models. The risks may be political, construction, legal, economic, operational, market, project selection, project finance, relationship, natural or any other types of risks. Both partners should clearly understand the various risks involved and agree to an allocation of risks between them. In order to fully understand the implications of risks in PPP, it is very important to clearly identify these partnerships because each type of contract will encounter different risks. According to ‘Guidelines for Selection of Consultants & Developers for PPP Projects in Uttar Pradesh-2016’, risk should be allocated to the party who is best able to manage it at least cost.\textsuperscript{172} The commercial and technical risks relating to construction, operation and maintenance shall be allocated to the private sector/concessionaire; similarly other commercial risks such as the rate of growth of traffic etc. as in the case of road projects shall also be allocated to the concessionaire. On the other hand, all direct and indirect political risks shall be assigned to the government/administrative departments.\textsuperscript{173} The ultimate objective is to allocate risks in such a way that both the private and the public sector are benefitted and consumers are well served. Risks associated with design, technology, construction, and operation are typically allocated to the private sector, which is usually more efficient than government in controlling and managing them.\textsuperscript{174}

The various types of risks associated with PPP projects are briefly discussed under the following heads:

4.3.8 (i) Political Risk is generally faced due to changes in government, changes in law, inconsistencies in public policies, unstable government, nationalisation of assets, poor public decision making process, corruption and favoritism, lack of sanctity of

\textsuperscript{172} n. 171, p. 54.
\textsuperscript{173} ibid.
\textsuperscript{174} n.156, p. 39.
contract, delay in project approval and permit, and arbitration difficulties. In UP, there is successive change in the government due to which some of the programmes and policies are changed by the incoming government. The political risk resulting from frequent changes in government can lead to confusion, poor communication, and a poor exchange of information. An incoming government may have a different opinion of the concessionaire than the outgoing government had, and thus, its perception or opinion of the project may change.

4.3.8 (ii) Construction Risk occurs generally due to land acquisition, unavailability of appropriate labour/material and finance, construction cost overruns, delays in acquiring necessary permits, design deficiency, construction time delay, late design changes, geotechnical conditions/ground condition, project delay, unproven engineering technique, resettlement and rehabilitation, quality risk, poor quality of workmanship, change of scope, default of subcontractors and suppliers, etc. In this, contractor bears the risk of cost and time overruns.

The GoUP has faced protests against its enforced land acquisition for the Yamuna Expressway. There have been widespread protests against the state government in the village of Bhatta Parsaul and Greater Noida for land acquisition in which many people died. Many PPP projects still remain stalled due to non-clearance of projects by different ministries like Ministry of Environment and Forests. Environment Impact Assessment and Social Impact Assessment had been made mandatory by the government before initiating any new projects due to environment degradation and climate change. All these takes too much time than expected for the clearance of projects and results in escalation of projects cost.

4.3.8 (iii) Legal Risk is mainly due to government regulations. The significant risk factors are changes in tax regulation, corruption and lack of respect for law, legislation changes/inconsistencies, industrial regulatory changes, import/export restrictions and rate of returns restrictions.

176 ibid.
177 ibid.
The legal changes involve amendments to various clauses of India’s 1961 Income Tax Act. The GoI and Vodafone have been engaged in a five-year $2.2 bn tax dispute over the company acquiring a mobile operator in India from its Hong Kong-based owners. After losing in the Supreme Court, the government had proposed to change the 50 year law.\textsuperscript{178} There is widespread corruption in legislature, executive, and judiciary. Bribes have to be given while taking a PPP projects. The laws are more violated than respected in UP.

The changes in regulations have been one of the prime reasons for the tardy progress in the award and construction of PPP projects which increase the project costs and decrease the revenue. For example, NHAI has made several changes to the old Model Concession Agreement (MCA). Firstly, there has been uncertainty over concession period which is a major deterrent in calculation of the return on investment and cash flow in projects. According to the previous system, NHAI awarded contracts in two parts-firstly, two lanes to four-laning and a further award for four-laning to six-laning. However, under the new MCA, if the traffic crosses a stated limit in the eighth or ninth year (for an 18-year contract), then the existing developer is given the option of taking up six-laning of the project. If the developer declines, the concession period is cut down from 18 years to 12 years creating confusion in capex, cash flow and rate of return on investment calculations. Secondly, if the traffic for an awarded stretch in any year exceeds 20 percent of the projected traffic, the entire excess amount has to be paid to the NHAI. Under the previous MCA, only a certain percentage (about 40\%) of the excess toll collected had to be shared with it.\textsuperscript{179}

\textbf{4.3.8 (iv)} Economic Risks are due to due poor financial market and inflation, interest rate volatility, foreign exchange and convertibility. The significant risk factor is interest rate volatility. It occurs when local interest rates are unanticipated due to immature local economic and banking system.\textsuperscript{180} Inflation risk pervasively affects the whole PPP model, with a potential damage to the real returns of the private investor; sponsoring


\textsuperscript{179} Changes in PPP norms behind tardy progress of road projects, The Indian Express (New Delhi), 13 April 2009. <www.indianexpress.com/story-print/446222/> (accessed on 28-10-2013)

\textsuperscript{180} n. 175, p. 12.
bonds may also be affected, to the extent that debt service is endangered.\textsuperscript{181} Unexpected foreign exchange rate changes represent an important risk factor in PPP infrastructure projects in developing countries. The risk exists because PPP projects typically sell their outputs domestically and generate revenues in local currency, whereas their financing costs and operating and maintenance costs are denominated in major currencies.

\textbf{4.3.8 (v)} Operation Risk results due to operation cost overrun, maintenance cost higher than expected, low operating productivity, risk regarding pricing of product/services, operator default, quality of operation, project/operation change, technology risk, waste of material, etc.\textsuperscript{182} For example, in the Delhi airport metro line which is the first metro project of India, DMRC built the civil structure and spent over half of the ₹ 5,700 cr project cost and DAMEPL, which had brought in the rolling stock and accepted to run it for 30 years are unwilling to operate the metro rail service as they found the returns on their investments were not up to their expectations because daily passenger numbers on the line stand at about 13,500 daily ridership which is much lower than expected of about 40,000 daily passengers.\textsuperscript{183} Toll collection is one of the important risks in PPP projects. The local people demand removal of toll plazas, no toll should be charged, or discounts be offered to local residents.

\textbf{4.3.8 (vi)} Market Risk arises due to the demand or price for a service which vary from forecast levels, generating less revenue than user expectation, tariff change due to improper tariff design or inflexible adjustment framework leading to the insufficient income. The other reason is the fluctuation in material cost by the government as well as private organisations.

\textbf{4.3.8 (vii)} Project Selection Risk occurs on the level of the demand of project, public opposition to projects, uncompetitive tender, competition risk, etc.\textsuperscript{184} It is the prejudice and demand from public due to different local living standards, values, culture and social system. Many school teachers have opposed the government’s decision to set up


\textsuperscript{182} n. 175, p. 12.


\textsuperscript{184} n. 175, p. 13.
model schools under PPP framework, saying that the move will further commercialise education making it costly affair for children belonging to weaker sections of the society.

4.3.8 (viii) Relationship Risk arises mainly due to different working methods/know-how between partners, inadequate experience in PPP, lack of commitment from public/private partner, organisation and coordination risk, inadequate distribution of responsibility and risk, inadequate negotiation period prior to initiation, staff crises, cultural differences between main stakeholders and non-involvement of host-community.\(^{185}\) This risk may increase the transaction cost or dispute because of improper organisation and coordination.

4.3.8 (ix) Project Finance Risk is due to high financial costs, lack of creditworthiness, high bidding costs, delay in financial closure, inability to service debt, lack of government guarantees, delay in payment of annuity and financier unwillingness to take high risk. The significant risk is financial attraction of project to investors. It occurs when the investor are not satisfied with the revenue and financing.

4.3.8 (x) Natural Risk occurs due to adverse environmental impacts and hazards. The significant risk factor is force majeure. It is the circumstances that are out of control of both foreign and local partners such as flood, fires, storms, epidemic diseases, war, hospitality and embargo. India is prone to many types of natural risk like earthquake, cyclone, flood and tsunami which occurs at regular interval. The most devastating tsunami in Andaman and Nicobar Islands and some southern coastal states of India in 2004, Uttarakhand floods that have washed away properties worth thousands of crores recently.

A UN report ‘Global Assessment Report on Disaster Risk Reduction-2013’ has warned India that it is at greater risk by opting for PPP mode of investment for raising its public infrastructure where the government has less control over its executing private partners and the latter has little interest in long term safety of the projects. Disasters directly affect business performance and undermine long-term competitiveness and sustainability. Owing to economic and urban growth, natural and artificial subsidence,

\(^{185}\) n. 175, p. 13.
sea level rise and climate change, this exposure is likely to increase dramatically, particularly in low and middle income countries like India.\textsuperscript{186}

\section*{4.3.9 Public Private Partnership Policy Framework in Uttar Pradesh}

As on date, India as well as UP does not have an overall infrastructure PPP policy. However, initiatives are being taken by the central government to formulate an overarching policy guideline at the central level soon. The revised draft PPP rules-2012 and draft national PPP policy have been put on the website (http://pppinindia.com/) for detailed discussion. However, GoUP have made PPP guidelines titled “Policy Framework for Selection of Consultants for various studies including studies for Financing, Construction, Maintenance and Operation of Infrastructure Projects through PPP in UP” in Guidelines for Selection of Consultants/Advisors, Developers for PPP Projects & Private Partners for Disinvestments in Uttar Pradesh and recently framed “Guidelines for Selection of Consultants & Developers for PPP Projects in Uttar Pradesh-2016” to provide a strategic thrust towards PPP especially in infrastructure.

The GoUP has formulated “Infrastructure and Industrial Investment Policy-2012” to encourage PPP for infrastructure development. It provides a framework for private sector participation in the execution of various infrastructure projects. It highlighted that introduction of international level access controlled expressway network, high capacity power stations and world class airport projects under PPP will enable all round development of the state.\textsuperscript{187}

To fulfill the infrastructure needs of the state, it is not possible to meet the financial requirements with budgetary provisions of the government alone. It requires large scale capital investment along with high quality management and competence. The government will continuously encourage private participation in the development of infrastructure facilities through private or joint ventures as much as possible, but if it appears that in certain sectors private or joint venture investment is not possible, state government will establish such infrastructure facilities by itself. Apart from VGF, annuity based model and other models will also be encouraged for PPP projects.\textsuperscript{188}


\textsuperscript{187} ibid.

\textsuperscript{188} ibid.
The UP IT/ITES Policy also encourages PPP in IT which will act as a vehicle for economic development of UP with inclusive growth to create a vibrant society with a high quality of life. The government will encourage investments in PPP projects for bringing world-class schools, hospitals and other facilities which can complement the efforts for attracting investments in IT sector.\textsuperscript{189}

The government will also promote power generation through public, private sectors and PPP. Apart from micro hydro-electric power generation through non-conventional energy, other power generation sectors like solar, biogas, biomass, and garbage will be encouraged. Various initiatives to encourage PPP like standardisation of bid documents, transparent and competitive bidding process, project preparatory assistance and VGF has been taken by the government.

**4.3.10 Public Private Partnership Legal Framework in Uttar Pradesh**

UP does not have any laws for PPP, though clear guidelines and standard contracts are framed by the Department of Infrastructure Development (DoID) in “Guidelines for Selection of Consultants/Advisors, Developers for PPP Projects and Private Partners for Disinvestments in UP” and recently framed “Guidelines for Selection of Consultants & Developers for PPP Projects in Uttar Pradesh-2016”. It identifies the scope and models of PPP (such as concession or design, build, finance and operate structures), public authorities obligations with regard to feasibility and consultation, procurement procedures, issues to be addressed in contractual provisions, payments, the institutional framework and the duration of projects. This helps to attract investors by enhancing or clarifying the legal framework applicable to PPP.

For solving disputes which is burdened with delays and cost overruns among the partners, there is provision for appointment of arbitrators for adjudicating disputes. In UP, the constitution of arbitrator shall comprise of one member nominated by Administrative Department of the GoUP and one member nominated by the developer. In case of difference of opinion between members, the matter shall be referred to the third member to be nominated jointly by both the parties.\textsuperscript{190} The Planning Commission


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(now NITI Aayog) has finalised the draft that seeks to set up a tribunal to resolve disputes arising in PPP projects. At present, all disputes in public contracts are resolved through the Arbitration Act of 1996.\textsuperscript{191}

4.3.11 Institutional Framework for Public Private Partnership in Uttar Pradesh

The institutional structure of PPP units reflects a number of priorities: the goals of the PPP unit, the existing administrative structure in that country/state and the level of development of the country/state’s PPP market.\textsuperscript{192} The state lacks in institutional arrangement for various stages of project implementation. There is no PPP Cell in the state which would assist different government departments in identifying, conceptualising and creating shelves of projects and also assist them in preparing detailed project reports and tendering process. The PPP Cell also acts as nodal agency for capacity building of PPP in the state. The various institutional frameworks found in the state are PPP Evaluation Committee, Committee of Secretaries, PPP Monitoring Committee, Difficulty Removal Committee, Consultancy Evaluation Committee, etc.

4.3.11 (i) Department of Infrastructure Development

It is the nodal department responsible for examining concession agreements from the financial angle, deciding on guarantees to be extended, and generally assesses risk allocation from the investment and banking perspectives. It is responsible for promotion of various grants, assistance for industrial and infrastructure development in the state. The other state departments also play an important role in identification of PPP projects within their respective areas.

4.3.11 (ii) Udyog Bandhu/Nivesh Mitra/PICUP

The GoUP has set up Udyog Bandhu (Friend of Industry) and Nivesh Mitra to attract investment in UP. Udyog Bandhu is a registered society with a vision “to transform the state of UP into the most preferred investment destination in India by acting as an effective investment policy driver and facilitator in providing world-class infrastructure and business environment within the state and, thus, promote economic


growth and enhance quality of life of the people of the state”.\textsuperscript{193} Its mission is to “proactively contributing in policy formulation for rapid development of infrastructure, manufacturing and service sectors, the organisation facilitates resolution of problems of prospective and existing entrepreneurs by providing them advisory services and taking up their issues at the appropriate level in the GoUP and other public bodies, institutions and organisations. \textit{Udyog Bandhu} functions with transparency and swift responsiveness and serves its clients with a friendly and courteous approach.”\textsuperscript{194}

\textit{Nivesh Mitra}, introduced in 2009, is a web based online facility for entrepreneurs desirous of setting up projects in UP. It enables existing and prospective investors and entrepreneurs to get online clearances/NOC from concerned department with ease and minimal ‘running around’. Its vision is to “strengthen partnership between the GoUP and investors by providing the relevant information and supporting entrepreneurs in obtaining all the required clearances and approvals, and also redressing concerns and grievances with the support of all Departments, District Officials and Industrial Associations, thus resulting in transformation of the state into the most sought after industrial hub across the globe.”\textsuperscript{195}

Earlier, the detailed information about PPP guidelines and projects were available on the website of \textit{Udyog Bandhu}. Now, it has been shifted to the \textit{Pradeshiya Industrial and Investment Corporation} of UP Ltd. (PICUP), Picup Bhawan in Lucknow.

\textbf{4.3.11 (iii) Public Private Partnership Bid Evaluation Committee (PPPBEC):} It is chaired by the Industrial Development Commissioner and consists of Principal Secretaries/Secretaries of Law, Finance, Administrative Department (of PPP project), Infrastructure Development with an option to co-opt one or more relevant departments.\textsuperscript{196} It shall have the power to examine all aspects and stages of the Developer selection i.e. issuance of Expression of Interest (EoI), evaluation of EoI, short-listing of Developers, deciding Terms of Reference (ToR), issuance of Request for Proposals (RfP), evaluation of technical and financial proposals, negotiations and final selection of the Developer.

\textsuperscript{193} see http://udyogbandhu.com/topics.aspx?mid=Vision. (accessed on 28-10-2013)
\textsuperscript{194} see http://udyogbandhu.com/topics.aspx?mid=Mission. (accessed on 28-10-2013)
\textsuperscript{195} see http://udyogbandhu.com/topics.aspx?mid=Nivesh%20Mitra (accessed on 28-10-2013)
\textsuperscript{196} n. 171, p. 50.
4.3.11 (iv) **Empowered Committee**: This shall be chaired by the Chief Secretary, GoUP to finally evaluate all bids for PPP projects beyond ₹ 100 cr. and it shall recommend the final selection of bidder/Developer to the Competent Authority.

4.3.11 (v) **Committee of Secretaries**: It will be chaired by Chief Secretary, GoUP who shall recommend the final bid for selection of bidder/Developer, having project cost greater than ₹ 1000 cr. or more to the Hon’ble Cabinet of Ministers after evaluating the bids received from PPPBEC.

4.3.11 (vi) **Public Private Partnership Monitoring Committee (PPPMC)**: This shall consist of all or any of the members of the PPPBEC. DoID, Administrative Department of PPP project, Finance shall necessarily be members of PPPMC. It shall be responsible to monitor the progress of the project, to oversee that the project is carried out as per agreed ToR and contractual conditions, to assess the quality of the deliverables, to accept/reject any part of assignment, to levy appropriate liquidated damages or penalty if the project is not carried out as per the agreement and for any such deficiency related to the completion of the project.\(^\text{197}\)

4.3.11 (vii) **Difficulty Removal Committee (DRC)**: It shall be constituted under the chairmanship of Infrastructure and Industrial Development Commissioner to decide on matters necessary for removal of difficulties which may arise out of the provisions of these guidelines. It shall also be empowered to examine and decide on cases where deviations in the guidelines are being sought. It shall also include Principal Secretary/Secretary Finance, Law and may co-opt any other officer(s) as its member, as deemed fit.

4.3.11 (viii) **Consultancy Evaluation Committee (CEC)**: It is constituted by the Administrative Department of state government/DoID under the chairmanship of Principal Secretary of concerned department, comprising of at least three members in order to carry out the Consultant selection procedure. It shall be responsible for all aspects and stages of the Consultant selection i.e. issuance of EoI, evaluation of EoI, short-listing of Consultants, deciding ToR, issuance of RfP, evaluation of technical and financial proposals, negotiations and final recommendation for selection of the

\[^{197}\text{n. 171, p. 50.}\]
4.3.11 (ix) Viability Gap Funding: The VGF, if any required, shall be considered by the Empowered Committee on the proposal of PPPBEC in accordance with the rules and limits as may be framed by state government and GoI in this regard and the proposal thereafter would be placed for approval of Competent Authority. As per GoI guidelines for VGF, financial assistance up to 20 percent of designated project cost would be admissible to the private developer through the state government. Eligible sectors for VGF include roads and bridges, railways, seaports, airports, power and urban transport.

4.3.12 Public Private Partnership Procurement Process in Uttar Pradesh

The Administrative Department of the state government/DID/specifed government agency (employer) may identify the project(s) to be taken up through PPP. The employer shall prepare a brief note on the proposed project(s), circulate it to the Departments concerned for their views, record its views thereupon and put up the concept of the project for the initial-In principle approval of the competent authority on the draft concept as well as the broad ToR for detailed studies on the proposed PPP project.

The Consultants will be selected by any ministry/department/organisation of GoUP where the costs of the project/assignment are funded by the PPP or partially or wholly through GoUP which is worth more than ₹ 5.00 lakh. For selection of the consultants, normally, the employer shall adopt the following two stage procedure which is as per the terms of Rules 168 to 175 of General Financial Rules (GFRs), 2005 as framed by GoI. However, in the first stage, the employer shall identify the likely sources on the basis of formal or informal enquiries and by inviting EoI through advertisement as per Rule 168 of GFRs as referred above. On the basis of responses received, consultants meeting the requirement will be short-listed by CEC for further consideration. In the second stage, the short-listed consultant will be invited to submit RfP for their technical and financial proposals and should be shortlisted through Quality and Cost Based Selection Method (QCBS) or in cases where complex studies are required, Quality Based Selection Method (QBS) may be followed.
The process for selection of Consultant shall normally include the following steps:

1. Preparation & Publication of Expression of Interest Document (EoI)
2. Shortlisting of applicants for issuance of RfP
3. Preparation & approval of Terms of Reference (ToR) and preparation of RfP
4. Approval of RfP by CEC & Issuance of RfP to shortlisted applicants
5. Pre Bid Meeting
6. Amendment of RfP based on feedback from prospective bidders & approval of modified RfP by CEC
7. Issuance of modified RfP
8. Receipt of Proposals and opening & evaluation of technical proposals by Sub Committee of CEC
9. Short listing of technically qualified consultants by CEC on recommendation of Sub Committee
10. Opening of financial proposals of technically qualified Consultants by CEC
11. Evaluation of financial proposals & recommendation of selected consultant & negotiations with the selected consultant, if required by CEC
12. Approval of the selected Consultant by appropriate Committee
13. Award of the contract to the selected consultant
14. Signing of agreement with the consultant by the department

The selected consultant shall undertake pre-feasibility and feasibility studies and may also be entrusted the task of preparing the RfP documents containing mainly the

198 n. 171, p 8.
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Detailed Project Report (DPR), Bid Document (including bidding procedure and bid parameter(s)), Draft Concession Agreement etc.

The process for selection of Developer shall normally include the following steps:

1. Preparation of Feasibility Report by the consultant & Preparation of report on Environmental Impact Assessment/ Social Impact Assessment by the consultant depending on requirement of the project

2. Examination of Feasibility Report and preparation of structure of PPP project

3. Approval of Feasibility Report by PPPBEC

4. Preparation of RfQ by Consultant

5. Approval by PPPBEC on RfQ

6. Publication of RfQ

7. Pre-bid Meeting

8. Approval on the amendments in RfQ by PPPBEC, if any on the basis of inputs in Pre-bid Meeting

9. Issuance of modified RfQ by department

10. Receipt of RfQ proposals by the department

11. Opening of bids and evaluation of RfQ by Sub-Committee of PPPBEC

12. Short listing of bidders by PPPBEC for issuance of RfP

13. Preparation of RfP by Consultant

14. Approval of draft RfP/DCA by PPPBEC

15. Issuance of draft RfP/DCA to short listed bidders

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199 n. 171, pp. 8-9.
The Administrative Department/DoID, the specified government agency (employer) shall adopt a two stage process for selection of developer. In the first stage the prospective developers shall be shortlisted as per evaluation criteria or pre qualification criteria disclosed upfront. In the second stage, the shortlisted developers are invited through RfPs to submit detailed technical and financial bids in separate envelopes. The technical bids so received shall be evaluated on pre-disclosed criteria and accordingly the financial bids of only the developers who have been found suitable on the basis of their technical bids shall be opened publically and such publically opened financial bids shall be evaluated as per pre-disclosed bid parameter. The RfP shall also contain DPR, Draft Concession Agreement, bid document etc.

The selection of developer will be done through quality and cost based selection method and selection of PPP projects shall be only through competitive bidding process. It will be adopted in all PPP projects initiated in the state. The bid process will be designed to assist and ascertain, technical, financial, managerial and commercial, capabilities of the developer. The prequalification criteria, performance criteria and
evaluation criteria shall be incorporated in the documents in clear and unambiguous terms to evaluate bids in transparent manner.

Final approval of the developer for PPP project shall be granted by the competent authority, i.e. the cabinet ministers of GoUP. Once a developer has been selected by the employer, the concession agreement shall be signed between the developer and the concerned administrative department who shall be responsible for the implementation of the PPP project by the selected developer.

The PPPMC shall be responsible to monitor the progress of the project, to oversee that the project is carried out as per agreed ToR and contractual conditions, to assess the quality of the deliverables, to accept/reject any part of assignment, to levy appropriate liquidated damages or penalty if the project is not carried out as per the agreement and for any such deficiency related to the completion of the project.

4.3.13 Indicative List of Public Private Partnership Projects in Uttar Pradesh

The indicative lists of projects for which PPP route may be considered in UP are:

2. Expressways Roads, ROBs, Flyovers, Highway related Infrastructure, etc.
3. Urban Re-generation.
4. Urban Transportation including Metro, Mono Rail etc.
5. Civil Aviation, Cargo Hub.
7. Irrigation projects (Dams, Channels, Embankments etc.)
8. Construction relating to projects involving Agro-processing & supply of inputs into agriculture.
9. Industrial Estates including Industrial Parks, or special economic zones.
10. Tourism Projects.
11. Modern Technology based Infrastructure including IT/ITES, Bio-Technology etc.
12. Education including World Class Medical, Technical and Higher Education facilities.
13. Health Facilities including multi-specialty Hospitals.
14. Tourism and Hospitality related Infrastructure.
15. Post-harvest Facilities including Public Markets, Processing facilities etc.

200 n. 171, p. 64.
17. Oil & Gas and Gas Works, Pipelines, Oil/Gas/LNG Storage.
18. Inland Waterways
19. Storm Water Drainage System.
20. Fertilizer (Capital Investment)
21. Terminal Markets
22. Soil Testing Labs
23. Cold Chains
24. Convention Centre with project cost of more than ₹ 300 cr. each.
25. Logistics Parks

About 45 projects are being initiated in the state in different sectors worth ₹ 1,02,355.83 cr. (annexure-V). Many other PPP projects in UP are under in pipeline. The main projects are in expressway, airports, power, tourism, urban development, education, housing and urban planning.

PPP is very important in developing countries like India and especially in states like UP which is most populous, huge infrastructure gaps, poverty and shortage of funds. It provides an important option before the government amongst a range of possible tools for all round development of the state. It should not be considered as privatisation. In PPP, both public and private partners work together to achieve the targeted goals. The government has initiated many projects in different sectors like roads, airports, power, tourism, urban development, education and health. Still, the government has not framed the PPP policy but only guidelines are made for private players who want to initiate PPP projects. The government policy regarding legal and institutional framework is still evolving. The state is far behind many states like MP and Odhisa who have made PPP policy and have taken many projects. To attract industrialist and easy access to state government offices in the state, government has provided the facility of ‘Golden Card’.

PPP can supplement the efforts of government in the development of the state as it lacks in finance, technical, commercial, managerial and legal expertise. It is to remember that these partnerships are not only about finance, they are also about improving the quality and efficiency of public services. Different models have been adopted for different projects by the government. These projects are under the
generalist bureaucrats who lack adequate knowledge about PPP basics. There is a need to train them in project formulation, financing, development of contracts, pricing, risk assessment and allocation, environmental issues, performance assurances and acceptance as well as satisfaction of stakeholders (citizens) for whom services are being created.\textsuperscript{201}

The state does not have an effective and efficient institutional mechanism for speedy clearance of the projects. There is no central PPP Cell that shall acts as a single window clearance agency, facilitates speedy development of the projects, assist different government departments in identifying, conceptualising and creating shelves of projects and also assist them in preparing detail project reports and tendering process. This function is performed by DoID in the state which acts as the nodal department responsible for examining all concession agreements. The approval of projects takes too much time and there is also no any PPP tribunal to settle the disputes on time. The government must establish a statutory regulatory mechanism like Independent Regulatory Commissions in USA or the TRAI to ensure the protection of the interest of the partners.

There is public protest against projects due to land acquisition, toll-plazas, inadequate compensation, rehabilitation and resettlement policies. This opposition has led to many cancellations, both before and after the concession award. So, there is a need to frame a PPP policy which should provide clear guidelines before taking projects. The success of PPP would depend upon many factors such as government commitment, legal and regulatory framework, stakeholder’s involvement, cost recovery tariffs, design and forms of PPP approach. The Infrastructure and Industrial Development Policy-2012 and other state policies have encouraged PPP in the state. The central government has framed ‘The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill-2012’ for taking mandatory consent from the public before acquiring their lands. So, PPP provides vast opportunities in the socio-economic development of the state.

\textsuperscript{201} T. N. Dhar, \textit{Public-Private Partnerships in India (policy, strategies and operationalisation issues)}, IJPA (special number on a policy framework on Public Private Partnerships), New Delhi, Vol. LIV No. 3, July-September 2008, p. 429.