



Rewriting the rules of the road

Gajendra Haldea is Advisor to the Deputy Chairman, Planning Commission, Government of India. His largest PPP transaction is the \$3 million Hyderabad Metro Rail project currently under construction. The Highway Model Concession Agreement that he authored has become a model for other national infrastructure projects, and is now being adapted for a \$2 billion sea link in Mumbai. He is the author of Infrastructure at Crossroads: The Challenges of Governance, recently published by Oxford University Press.

You have been a key policy shaper and have played a critical role in the infrastructure development space in India, particularly in the area of public-private partnerships (PPPs). How did this journey start for you and lead to your current role as Advisor to the Deputy Chairman, Planning Commission?

I joined the Finance Ministry in 1993 as Joint Secretary (Infrastructure), and at that time the Government of India had begun the process of policy formulation for enabling private participation in infrastructure as part of its economic liberalization. In 1999-2001, I wrote the Electricity Bill that became law in 2003, and I also advised several state governments. In 2000, I published the first Model Concession Agreement (MCA) for national highways, which in effect became the template



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for subsequent government MCAs. I joined the Planning Commission in 2004, when the Committee on Infrastructure was set up under the chairmanship of the Prime Minister, and I headed its Secretariat. During the past eight years, we have worked toward creating the entire architecture for PPPs.

The Indian experience using PPPs to develop the national highway network is widely recognized as a success. What factors were most important?

The most critical factor that enabled rapid progress was the standardization of documents and processes. Besides Model Concession Agreements, we have standardized the bidding docu-

ments and technical standards. The appraisal and approval processes have also been streamlined. As a result, a large number of PPP projects have been awarded and built. According to a recent World Bank report, India is the top recipient of PPP investment among developing countries.

The Model Concession Agreement is recognized as one of the most innovative aspects of Indian PPPs. How many MCAs have been prepared? What are some of the most innovative aspects of the MCA?

We have published 12 MCAs in sectors including highways, urban rail, airports, ports, power transmission, and railway stations. Currently, we are working on five new MCAs in different sec-

tors. The MCA serves as a ready-to-use contract conforming to international best practices. It balances the diverse interests of various stakeholders, minimizes the potential for malfeasance, and protects public servants, investors, and lenders from unintended outcomes.

What were some of the biggest challenges that the highway PPP program faced in the initial period, and what challenges remain?

The main challenge came from incumbent officials who tend to resist any initiative that interferes with their conventional contracts. It takes a long time to change mindsets, especially when vested interests are at work.

replicated. If you take up a few projects first and evolve an MCA later, several years could be lost.

The Viability Gap Funding (VGF) model has been a cornerstone of the PPP program in highways. Yet, in certain cases, the level of traffic is low and tolls supplemented with a VGF capped at 40 percent of capital costs do not make the project viable. In such cases, does the Government of India use availability payments-based models?

Viability gap funding of up to 40 percent of project costs is a high level of financial support, especially when the cost of land is borne by the

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What advice would you give countries undertaking their first PPP transactions? Is it advisable to first develop success stories on individual transactions and then incorporate country-specific leanings to evolve a Model Concession Agreement?

An MCA should be drafted around the first transaction itself. It can then be improved and

government. If a project is still not viable, the government should either reduce its capital costs or increase the revenue potential. If that does not work, the government should build the project itself. Use of the availability based model implies deferred budgetary payments, which are akin to government borrowings. Since the cost of private capital is much higher, the better course is for the government to borrow directly and build projects through turnkey contracts. A significant part of the efficiency in PPP projects arises from

the turnkey approach, and the public sector too can capture this. Moreover, availability based payments are off-budget liabilities that could create excessive burdens for future generations.

What factors should government agencies keep in mind as they set out to develop PPPs, specifically in relation to project preparation, regulation, and monitoring of the contract?

Preparation of a feasibility report is the first step, but the heart of a PPP project is the concession agreement, which should form the basis of competitive bidding. Since infrastructure projects provide public services, the concession agreement also serves as a statement of public policy. A contract is as good as its enforcement. If the

project authorities do not monitor its implementation, the users or the public exchequer could lose out. All these aspects need to be institutionalized as countries move toward greater reliance on PPP. 🚗

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ROLLING OUT ROAD PPPs

Due to constraints in public funding during the last decade, public-private partnerships have come to play a major role in the development of highways in India. Government has created an enabling policy and regulatory framework to attract competitive private investment, and the response has been very encouraging. The cornerstone of India's success in this area is the adoption of standardized documents and processes that have led to a rapid roll out of projects.

As a result, the share of private sector investment in the road sector has increased from about 8 percent in the Tenth Five Year Plan (2002-07) to about 20 percent in the Eleventh Five Year Plan (2007-12). This includes national highways as well as state highways. According to the World Bank, India has been the top recipient of PPP investments among developing countries in recent years.

—Gajendra Haldea