Public Private Partnership in Infrastructure projects in India: Lessons learnt and the way forward

July 2013

Submitted by:
Charu Wadhwa
Delhi School of Economics

Mentored by:
Shri Alok Shekhar
Private Secretary to Minister of State, External Affairs, Ministry External Affairs
Preface

I am Charu Wadhwa, pursuing Masters in Economics from Delhi School of Economics. I am a very passionate, ambitious and a hardworking.

Rakshak Foundation is a non-profit organization that researches different public policy issues and creates awareness about them. Rakshak Foundation's initiative to help strengthen the foundations of our society and bolster the confidence of a common man in the system by creating awareness about the issues affecting him is worth appreciating.

I chose to participate in this internship program because this Internship is the best platform for me to make my dream come true to work for a better society. I have always been very passionate about contributing towards the society's welfare. My goals and objective matches with Rakshak Foundation’s work. This internship is not only a unique research program which will give me and exposure into the real world of policy, society and governance but also an opportunity to know more about social issues and work for long term improvement and try my best to make a positive impact on society. The structure of the Internship is really good as one gets to learn from their peers as well. This internship is helping me grow as an Individual and has given me a golden opportunity to help change the lives of millions of people. This program will give me a chance to work for a better tomorrow.

It has been a wonderful experience working with Rakshak Foundation so far. I don't think I ever would have got a chance to meet such eminent people personally and discuss with them about the issues affecting the society today. I feel that India today suffers a huge communication gap between the government and the citizens, and this is one of the most fundamental problems of the society. I hope that through this project I would do my bit in reducing this gap.
Acknowledgements

I take this opportunity to express my special gratitude and deep regards to my Mentor Shri Alok Shekharji for his guidance and constant encouragement throughout the course of this project. The help and guidance given by him time to time shall carry me a long way in the journey of life on which I am about to embark.

I also take this opportunity to express a deep sense of gratitude to Ms. Anna Roy, Director, Department of Financial Services, Ministry of Finance, Government of India, recently nominated as the Director of Corporation Bank representing the Central Government for her cordial support. Shri Praveen Mahto, Director Infrastructure, Planning –Commission, for his valuable information and guidance, which helped me in getting a clear picture regarding the present scenario of PPP in India and documentation and rules which are handled by Planning Commission. Mr. Sidharth Kapur, CFO, GMR who helped me a lot in getting a point of view of a private partner in PPP projects in India.

I am obliged to my internship coordinators of Rakshak Foundation as well all the fellow interns for the valuable information provided by them. I am grateful to each one of them for their cooperation during the period of my assignment.

Lastly, I would like to thank Rakshak foundation for giving me this opportunity without which this assignment wouldn’t have been possible. Besides I would also like to thank Mr. Sachin Bansal, Founder and President, Rakshak Foundation, for giving me this opportunity to work on this project and do my bit for the society.

Charu Wadhwa
Table of Contents

LIST OF FIGURES .................................................................................................................. III
LIST OF TABLES .................................................................................................................... III
LIST OF ABBREVIATION .......................................................................................................... IV
EXECUTIVE SUMMARY ............................................................................................................. V

1. INTRODUCTION .................................................................................................................. 1
   1.1 BACKGROUND INFORMATION .................................................................................. 1
   1.2 MAIN PROBLEMS, THEIR SCOPE AND IMPACT ON THE SOCIETY ....................... 7
   1.3 GOALS AND OBJECTIVES .......................................................................................... 9

2. METHODOLOGY .................................................................................................................. 10
   2.1 LITERATURE SEARCH ............................................................................................... 10
   2.2 MENTOR MEETINGS .................................................................................................. 13
   2.3 MEETINGS AND INTERVIEWS ..................................................................................... 15

3. CURRENT NGO AND GOVERNMENT EFFORTS ............................................................... 16
   3.1 PPP CELLS .................................................................................................................. 16
   3.2 PPPAC ........................................................................................................................ 16
   3.3 UNION CABINET AND COMMITTEES ......................................................................... 17
   3.4 STANDARDIZATION OF BIDDING AND CONCESSION DOCUMENTS ...................... 17
   3.5 THE MODEL CONCESSION AGREEMENT (MCA) ....................................................... 17
   3.6 INDIA INFRASTRUCTURE FINANCE COMPANY LIMITED (IIFCL) ......................... 18
   3.7 INDIA INFRASTRUCTURE PROJECT DEVELOPMENT FUND (IIPDF) ...................... 18
   3.8 SEVERAL FISCAL AND OTHER INCENTIVES TO ATTRACT PRIVATE INVESTORS TO ROAD PROJECTS .................................................................................................................. 19
   3.9 NATIONAL PPP CAPACITY BUILDING PROGRAMME .............................................. 19
3.10 Public Private Partnership (Preparation, Procurement and Management) Rules 2011

3.11 The Draft Public Private Partnership Rules 2011

3.12 The Secretariat for Infrastructure

3.13 The Cabinet Committee on Infrastructure (CCI)

3.14 The Initiatives in Airport Sector

4. RESULTS AND DISCUSSIONS

4.1 Findings from Theoretical Readings and Literature Surveys

4.2 Finding from the Meetings and Impact on the Theoretical Focus

4.3 Gap Analysis

5. RECOMMENDATIONS, SCOPE AND STRATEGY FOR IMPLEMENTATION

6. FUTURE WORK

7. REFERENCES

APPENDIX A
List of Figures

Figure 1: Planned year wise Infrastructure spending ..................................................... 1
Figure 2: The spectrum of PPP agreements ..................................................................... 3
Figure 3: Evolution of PPP in India .................................................................................. 3
Figure 4: PPP projects in India by sector and by value ..................................................... 23
Figure 5: The steps in the public private partnership processS ...................................... 29
Figure 6: Equity and revenue share of DIAL in JV ......................................................... 31
Figure 7: DIAL’s financing of the Project .................................................................... 32
Figure 8: Modernization and restructuring of IGI Airport at Delhi .............................. 37
Figure 9: Climb in number and value of PPP projects in India 1995-2006 .................. 40
Figure 10: Recommendation 1 ...................................................................................... 45
Figure 11: Recommendation 2 ...................................................................................... 46
Figure 12: Recommendation 3 ...................................................................................... 46
Figure 13: Recommendation 4 ...................................................................................... 47
Figure 14: Recommendation 5 ...................................................................................... 47
Figure 15: Recommendation 6 ...................................................................................... 48
Figure 16: Recommendation 7 ...................................................................................... 48
Figure 17: Recommendation 8 ...................................................................................... 49
Figure 18: Recommendation 9 ...................................................................................... 49

List of Tables

Table 1: Sector wise figures of PPP projects .................................................................. 6
Table 2: The components adopted by DIAL to finance the project cost ...................... 28
Table 3: PPP projects Process Management .................................................................. 43
Table 4: Some issues and Recommendations ................................................................ 50
List of Abbreviations

AAI  - Airports Authority of India
ADF  - Airport Development Fee
AERA - Airport Economic Regulatory Authority of India
ATC  - Air Traffic Control
DIAL - Delhi International Airport Limited
DGCA - Director General of Civil Aviation
DPR  - Detailed Project Report
EGoM - Empowered Group of Ministers
GOI  - Government of India
IGIA - Indira Gandhi International Airport Delhi
IIPDF - India Infrastructure Project Development Fund
IIFCL - India Infrastructure Finance Company Limited
JV   - Joint Venture
MoCA - Ministry of Civil Aviation
MCA  - Model Concession Agreement
NTBC - The Noida Toll Bridge Company Ltd
OMDA - Operation Management and Development Agreement
PPP  - Public Private Partnership
RFP  - Request for Proposal
RFQ  - Request for qualification
SOP  - Standard Operating Procedure
SPV  - Special Purpose Vehicle
VGF  - Viability gap funding
Executive Summary

This report deals with the current scenario of PPP projects in India, development till now and the way forward.

Infrastructure is one of the most important sectors of the economy right now where huge investment is required so as to increase the growth rate. Private funding of infrastructure has become a mainstay of the government’s policy towards infrastructural development.

Economic analysis of the PPP contracts and the relevant laws is undertaken to determine their efficiency properties. I have argued that while the governing laws have several desirable and efficiency enhancing features, the enforcement of these laws has been far from satisfactory.

Government has taken policy initiatives to address issues relating to regulatory environment. Now more sectors have been opened to private and foreign investment, regulatory institutions are being set up and strengthened, levy of user charges is promoted, fiscal incentives are provided to infrastructure projects, standardized contractual documents including the Model Concession Agreement are introduced and the mechanism for PPPs in the Central sector had been streamlined through setting up of PPPAC and a website exclusively devoted to PPPs has been launched to serve as a virtual market place for PPP projects.

To address financing needs of these projects, India Infrastructure Finance Company had been set up and a new Scheme to meet Viability Gap Funding (VGF) of PPP was launched. Government of India now permits FDI in most infrastructure sectors to the extent of 100 per cent. The question was whether the policy incentives have had the intended effect on investors or not.

Two main case studies are considered in the report one from the highway sector DND flyway and the second one is from aviation sector Delhi Airport. Reports,
documents and studies available are analyzed. It also makes use of information obtained from public authorities involved in the process of privatization and other officials who are aware of ground realities.

DND flyway is taken as a benchmark PPP project and analysis of the issues with the project and comparison with the current situation is carried out. Positive experiences in this sector, both from users as well as private investors, provides us the models which could be extended to other sectors as well, including the social sectors and irrigation. The original compulsion to adopt PPPs was resource scarcity. While additional resources were needed to meet India’s infrastructure needs, the experience so far had proven that the efficiencies introduced by well-designed PPPs, rather than resource scarcity, should be the main reason to pursue them.

As second case study evaluation of Delhi Airport Project as one of the initial PPP in Airport sector is done by reading the bidding process, various case studies, OMDA (the agreement signed), GMR’s website, reports and articles on this project and meeting CFO of GMR, Airport.

In a report titled “Implementation of Public Private Partnership, Indira Gandhi International Airport, Delhi” the Comptroller and Auditor General of India (CAG) has found faults in almost every step of implementation of the Public Private Partnership (PPP) model in the brownfield privatization of New Delhi’s Indira Gandhi International Airport (IGIA) so analyze was done to find out how true these allegations are.

There are a lot of loopholes found and recommendations given to increase efficiency, some of them are as follows:

- The most important recommendation is that all the projects should be awarded on the basis of Competitive bidding only.
- DPR should be properly made
• Issues related to land acquisition and environment clearances and all should be taken into consideration
• Broadening of the sources of financing is required for growth of PPP, so policy reforms in capital market are required
• Concessions should be made tradable by allowing the project developers to exit after delivering on the construction specifications, when the operations are stabilized.
• To attract global investment funds for infrastructure, India’s PPPs need to offer returns comparable to those in other markets, hence there should be active promotion of private participation
• Use of Model Agreements in airport sector like highways was thought of one solution before this interview but it was found that Model agreements cannot be used as each airport is very different project like Delhi airport is a brownfield project some are Greenfield also the place. Investment everything is different we cannot generalize.
• The major finding was that Private Players think that keeping PPP project out of purview of RTI act will result in increasing the efficiency as there is more pressure on concessionaire while working because of this clause they need their freedom to work as a private party. So According to Mr. Sidharath Kapur RTI should not apply
• It was found that the major issue with PPP in India is that it is treated more like a public project so to make it more efficient private players need autonomy. They want government to design proper contract and all clauses and after that just leave it to private player and let them work accordingly. PPP should be kept away from imposition of bureaucratic hurdles

So the main essence is mostly policies in place are efficient we need to work on implementation issues and issues relating to environment clearances, land acquisition, fair and competitive bidding process, bureaucratic hurdles. A stable and efficient regulatory frameworks needs to be established.
“PPP projects take much less time to complete and the
Government does not have to bear cost overruns. This will
not only enable us to leverage our limited public resources
but also improve efficiency of service delivery.”

Shri Manmohan Singh,
Honorable Prime Minister of India

Source: PM Inaugural address at the Conference on
Public Private Partnership in National Highways
1. Introduction

1.1 Background Information

Adequate investment in the development of infrastructure is a prerequisite for higher growth, this was also realized in twelfth five year plan. Accordingly projected investment for the Twelfth Plan is Rs. 55,74,663 crore more than twice the investment of Rs. 24,24,277 crore anticipated during the Eleventh Plan. The Twelfth Plan also projected a share of 48 per cent of private investment against 36.61 per cent anticipated in the Eleventh Plan. But the target is too ambitious for investment in infrastructure due to the limited budgetary allocations, especially in view of the renewed emphasis on social sectors.

![Figure 1: Planned year wise Infrastructure spending](source)

Source: Twelfth five year plan

**Figure 1: Planned year wise Infrastructure spending**
As a result, the role of private investment in funding infrastructure projects assumes greater significance in meeting the Twelfth Plan targets. The investment strategy of the Government primarily relies on promoting investment through a combination of public and private participation through Public Private Partnerships (PPPs).

The Government of India defines a PPP as a partnership between a public sector entity and a private sector entity for the creation and/or management of infrastructure for public purpose for a specified period of time called concession period on commercial terms and in which the private partner has been procured through a transparent and open procurement system. PPPs presented an opportunity to meet India’s investment needs that can be translated into a win-win situation for all. PPPs are thus being seen as an important tool for accelerating infrastructure investments, and deal with the infrastructure deficit in the country.

Public-private partnerships can take a wide range of forms varying in the degree of involvement of the private player in traditionally public infrastructure. A public-private partnership is through a contract or agreement to outline the responsibilities of each party and clearly allocate risk. Below is the graph that depicts the spectrum of PPP agreements.

![Graph depicting the spectrum of PPP agreements](http://ppp.worldbank.org/public-private-partnership/agreements)
PPP has evolved over a period of time as can be seen from the following flowchart.

**Figure 2: The spectrum of PPP agreements**

**Figure 3: Evolution of PPP in India**
It is recognized that bottlenecks in Infrastructure has been a matter of concern in India as it acts as a barrier in its way of robust pace of economic growth. The level of investments in infrastructure has to be increased to achieve the targeted economic growth. While many advanced economies and fiscal constrained developing countries have developed their physical infrastructure successfully, in India, private participation in the process of infrastructure development has received lackluster response.

There was a pressure to change the standard model of public procurement due to high level of public debt, which rapidly increased during the macroeconomic crisis of the 1970s and 1980s.

The country initiated the process of partnering with the private sector in 1991, beginning with the power sector, and since then achieved notable successes in telecom, roads, ports and airports sectors. Infrastructure development in India has largely been in the Government domain. However, recently Government of India and State Government(s) have started focusing in involving the private sector in infrastructure creation under the public private partnership (PPP) framework due to the scarce resources, to fund the infrastructure deficit and fulfill the large investment required for infrastructure development in India. And also because private sector participation add value in the various aspects like innovation, managerial efficiency in the project management process, adoption of better technology in key areas etc.¹

In tenth plan the union government has estimated an investment of $320 billion in the infrastructure. The major infrastructure projects in the Indian state of Maharashtra (more than 50%) are based on the PPP model. In the 2000s, other states such Gujarat, Karnataka,

¹ Wikipedia and http://www.studymode.com/essays/Public-Private-Partnership-In-Infrastructure-Development-Indian-816097.html
MP, Tamil Nadu also adopted this model. Sector-wise, the road projects account for about 60% of the total projects in numbers, and 45% in terms of value. Ports come in the second place and account for 10% of the total projects (30% of the total value). Other sectors including power, irrigation, telecommunication, water supply, and airports have gained momentum through the PPPP model. The potential use of PPPs in health and education sectors and e-governance remains largely untapped across India as a whole, though recently there have been some activities in these sectors.

$225 billion was invested by the private sector in infrastructure between 2007 and 2012, which equivalent to 12% of 2012 GDP, much of it through PPPs. Official figures suggest 758 PPP projects are under way or complete, worth $70 billion. A lot of improvement has taken place, with perhaps only 40% of projects using the standard contract framework that the central government recommends.  

There are two major data bases that capture the development of PPP projects in India in addition to respective Ministry sources – one by the Planning Commission on PPP projects and the other by the World Bank on PPI database. The database lists information on all PPP projects.

Development and use of PPPs for delivering infrastructure services has now at least 11 years of presence in India, with the majority of projects coming in the last 5 to 7 years. Policies in favour of attracting private participation as well as innovation with different structures have seen varying degrees of success. Some sectors like road, ports, telecommunications and power, have done very good progress compared to limited success in other sectors.

Some specific states and sectors have undertaken far more PPPs than others.

---


http://en.wikipedia.org/wiki/Public%E2%80%93private_partnership
### Table 1: Sector wise figures of PPP projects

<table>
<thead>
<tr>
<th>Sector</th>
<th>Total Number of Projects</th>
<th>Based on 100 crore</th>
<th>Between 100 to 250 crore</th>
<th>Between 251 to 500 crore</th>
<th>More than 500 crore</th>
<th>Value of contacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airports</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>303.0</td>
<td>18,008.0</td>
<td>19,111.0</td>
</tr>
<tr>
<td>Education</td>
<td>17</td>
<td>424.2</td>
<td>365.5</td>
<td>460.0</td>
<td>600.0</td>
<td>1,849.7</td>
</tr>
<tr>
<td>Energy</td>
<td>56</td>
<td>337.6</td>
<td>934.0</td>
<td>3,083.0</td>
<td>62,890.0</td>
<td>67,244.6</td>
</tr>
<tr>
<td>Health Care</td>
<td>8</td>
<td>315.0</td>
<td>343.0</td>
<td>275.0</td>
<td>900.0</td>
<td>1,833.0</td>
</tr>
<tr>
<td>Ports</td>
<td>61</td>
<td>88.0</td>
<td>1,745.3</td>
<td>4,304.8</td>
<td>74,902.1</td>
<td>81,038.2</td>
</tr>
<tr>
<td>Railways</td>
<td>4</td>
<td>-</td>
<td>102.2</td>
<td>873.0</td>
<td>594.3</td>
<td>1,569.6</td>
</tr>
<tr>
<td>Roads</td>
<td>405</td>
<td>4,304.6</td>
<td>11,696.5</td>
<td>38,520.5</td>
<td>122,143.3</td>
<td>176,724.9</td>
</tr>
<tr>
<td>Tourism</td>
<td>50</td>
<td>1,132.6</td>
<td>1,503.5</td>
<td>300.0</td>
<td>1,050.0</td>
<td>4,408.1</td>
</tr>
<tr>
<td>Urban Development</td>
<td>152</td>
<td>2,812.0</td>
<td>3,136.9</td>
<td>6,688.2</td>
<td>16,838.0</td>
<td>29,475.0</td>
</tr>
<tr>
<td>Total</td>
<td>758</td>
<td>9,471.9</td>
<td>19,826.9</td>
<td>55,307.5</td>
<td>298,725.8</td>
<td>383,332.1</td>
</tr>
</tbody>
</table>

Source: Database, PPP in India

There are principles that should be kept in mind while developing PPP:\(^3\)

- A fair and transparent framework needs to be provided to facilitate and encourage PPP mode
- Ensure that the projects are planned and managed to benefit the users and maximize economic returns of the stakeholders as well.
- Adopt an efficient, transparent, equitable, consistent and competitive process for selection of private partners
- Protect the interests of end users, private and public sector entities and other stakeholders.

\(^3\) [www.pppinindia.com](http://www.pppinindia.com)
• Encourage efficient delivery of public services by engaging proficient and
innovative practices with the utilization of best available skills, knowledge
& resources in the private sector.
• Achieve increased efficiency in the deployment of investments by setting
out enabling frameworks for greater private sector participation in building
future public assets and ensuring their long-term maintenance.
• Provide requisite provision in budgets for contingent liabilities for the
sponsoring government, in various forms such as, liabilities towards
lenders in case of contract termination or minimum revenue guarantees

1.2 Main Problems, their scope and impact on the society
India faced a lot challenges like other countries have faced. The initial policy
initiatives by the Government however, did not yield the desired results. The
failure of PPP initiatives was not surprising. Several constraints hampered the
prospects of PPPs, some of them are as follows:

• Absence of an integrated institutional policy framework for project
identification, development and implementation.
• Coordination failure between various Government agencies involved.
• Long term finance not easily available
• Capacity in the public sector and private sector to prepare and implement
PPP contracts not adequate and to meet technical and financial
requirements of PPPs not adequate
• Difficult to fulfill both the aims together i.e. Private sector’s motivation for
profit and public sector’s concern for public service
• Apportion risk in a fair, rational and sustainable way is difficult.
• Management of the partnership through a tightly framed concession
agreement over a 20-30 period in a rapidly changing environment is not
easy
• Till now there was lack of consensus regarding MCAs (Model Concession
Agreement)
• Absence of standardization of transactional practices and documents
Contractor led bids with little or no Innovation and small ideas sites

Delays due to red tape and problems acquiring land are the most endemic issues. Only a quarter of all the projects are on or ahead of schedule

One major Concern is the efficiency properties of the contracts and governing

PPP projects are long term projects & face several risks such as political, construction, maintenance, commercial and financial risks

While the governing laws have several desirable & efficiency enhancing features the , the enforcement of these laws has been not satisfactory

Wide and growing gap between the demand and supply of infrastructure

The government allows not only gaming with contractual clauses, it is open to renegotiating the contract itself. So, investors can bargain for fiscal and other benefits before and also well after the signing of PPP contracts.

The government is ready to bend over backwards to ensure success of ongoing projects, many PPP contracts have been renegotiated in favour of private investors.

There is a lot of government pressure and bureaucratic hurdles which hampers the growth in efficiency levels of Private partner.

Due to infrastructure bottlenecks society suffers a lot. Many of the times due to the above mentioned issues common man end up paying for the cost overruns.
1.3 Goals and Objectives

The objective of this project is to focus on identifying the factors that are critical for Public Private Partnership in Infrastructure projects in India by looking deep into the lessons learnt and also suggesting the way forward.

So specific sectors and case studies are considered, like DND flyover as a benchmark in highway sector and the second case study is from aviation sector, Delhi airport from is taken, with the aim of analyzing the issues and how over the period of time things have evolved, do policy changes over the decade have made PPP more efficient, Are these policies successful enough in overcoming the problems that use to exist in PPP initially and then look into existing issues and scope for improvement. Also efforts were made to find out the view point of private partner. This study will further help in improving the overall efficiency of infrastructure industries in India and reach their potential.

The main goal of the project is to understand the current scenario of PPP in India and their primary sectors and conduct research on the existing and proposed government policies in encouraging PPP opportunities in India especially in Infrastructure. Also to see how policies in place are taking care of efficiency of PPP projects and how can we further improve so that the full potential is realized. Meeting officials from Planning Commission and Infrastructure companies getting a clear picture was one objective.
2. Methodology

2.1 Literature Search

2.1.1 Ministry of finance, Government of India has an entire website called Public Private Partnership in India which provides all the information regarding each step of PPP process, advisory committees, requirement and forms and also case studies. Planning commission deals with the policy issues. Analysis of the website, the policy framework, databases and case studies is done. There are lot policy reports and papers written on PPP as well which helped in getting the insight regarding the present situation of PPP as well the issues it was facing and existing problems as well and also the evolution of new policies and the steps taken by the government. Analyzed the website www.pppinindia.com, main findings were the framework, case studies, financing, developers, PPP toolkit, mainstreaming of PPP projects, approval committees, regulations and forms, Reports and policy documents, the Draft National Policy 2011

2.1.2 Studied Professor Ram Singh’s paper ‘PPP: A means or an end?’ and various articles written by him in economic times and EPW which talks the various issues PPP is facing like PPP is attracted only in urban and mega cities. Findings from the report are various policy initiatives by the government like Standardization of Bidding and Concession Document, India Infrastructure Finance Company Limited (IIFCL), Provision of viability gap funding, India Infrastructure Project Development Fund (IIPDF), Public Private Partnership Appraisal Committee (PPPAC). The government is ready to bend backwards to ensure success of ongoing projects. Several PPP contracts for roads and airports have been renegotiated in favour of investors.

2.1.3 Studied NTBL’s website (www.ntbcl.com) which mentions all the information of DND. The Noida Toll Bridge Company Ltd. (NTBCL) is basically
promoted as a special purpose vehicle (SPV) by Infrastructure Leasing and Financial Services Ltd. (IL&FS) to develop construct, operate and maintain the DND Flyway on a Build Own Operate Transfer (BOOT) basis.

2.1.4 ‘Government for the Independent regulator to promote PPP projects’ report talks about how an independent regulator can make PPP projects more efficient.

2.1.5 The Key finding from the website on Infrastructure (infrastructure.govt.in) is that the Secretariat of Infrastructure, Planning Commission initiates policies that ensures creation of world class infrastructure on time delivering international standard services, developing structures that maximize public-private partnership’s (PPPs) role in India and monitoring progress of key infrastructure projects to ensure that established targets are realized.

2.1.6 The analyses of the whole website of DND flyway was undertaken which highlighted all the information regarding basic information regarding DND, tariffs, schemes, all other facilities available like Golden and silver cards and answering distress calls solutions.

2.1.7 The paper ‘Distribution of Highways PPP in India: Key legal and economic determinants’ highlights various issues concerning the efficiency properties of the contracts and governing law and my agenda was to undertake the economic analysis of the PPP contracts and the relevant laws to determine their efficiency properties.

2.1.8 DND flyaway concession agreement, case study of Delhi Noida bridge by Planning Commission illustrated the need to follow good practice in both contract design and the process of awarding contracts, and the potential pitfalls of not doing so.

2.1.9 An article from Central Right India’s website ‘Delhi-Noida Toll Bridge-Loot in the name of Public-Private Partnerships’ mentions about the increase in toll rates.
for the 22-km Delhi-Noida Direct (DND) flyway by the Noida Toll Bridge Company Limited (NTBCL). Two wheelers toll rates have been increased from Rs 11 to Rs 12, for cars from Rs 22 to Rs 25, LCVs from Rs 45 to Rs 55, bus and truck will now shell out Rs 70 from earlier Rs 55. Large vehicles will pay Rs 100 from existing Rs 75 and extra-large vehicles from Rs 95 to Rs 135. This is not the first hike. DND flyway is a classic case of how Public Private Partnerships (PPP) can be used by the corporate-bureaucratic-politician nexus to loot the nation.

2.1.10 Analyzed the Model Concession Agreement for PPP in National Highways available at infrastuctue.govt.in.

2.1.11 In Case Study by Planning Commission- “Commercial use of land at Delhi and Mumbai Airports- An analysis of the questions of law and public policy” it was found that in June 2003, the Airports Authority of India (the “AAI”) had approved a proposal for the modernization of the Delhi and Mumbai airports through Public Private Partnership (PPP).

2.1.12 As per the case study by IIM A, the concession agreement for the modernization and operation of Indira Gandhi International airport in Delhi and Chhatrapati Shivaji International airport at Mumbai respectively is referred to as Operation Management and Development Agreement (OMDA). The OMDA was a part of a set of transaction documents along with the request for proposal provided to potential bidders.

2.1.13 Report by CAG “Implementation of Public Private Partnership, Indira Gandhi International Airport, Delhi” This Report of the Comptroller and Auditor General of India contains the results of the Performance Audit of implementation of Public Private Partnership Project by Airports Authority of India at Indira Gandhi International Airport Delhi. The Audit covered the period from 2006 to 2012. The Report emanates from the scrutiny of files and documents pertaining to the Ministry of Civil Aviation, Airports Authority of India, Airport Economic Regulatory Authority of India, Operation, Management and Development Agreement of 2006, Passenger Service Fee (Security Component) Escrow Account,
etc. The Report has been prepared for submission to the President of India under Article 151 of the Constitution.

2.1.14 A case study “GMR’s Terminal 3 for Delhi Airport: A Successful Project Execution Model for Public-Private Partnership Initiatives?” This case study discusses the infrastructure deficit in India and how the country was trying to overcome this problem with the help of the Public Private Partnership (PPP) model.

2.1.15 A case study by Planning Commission “Bidding Process for the Delhi and Mumbai Airports” elaborates and discusses the bidding process of Delhi and Mumbai Airports in detail and stated that the bidding process for the selection of concessionaires for the Delhi and Mumbai airports was a controversial one.

2.1.16 GMR’s Website mainly focused on the basic information of the PPP project of Delhi Airport. GMR is the main concessionaire in Delhi Airport project, so it deals with all the operations and management.

2.2 Mentor Meetings

Apart from Literature reviews and field visits, discussions with mentors regarding the challenges faced by the PPP and issues in policy framework has also proved to be useful in compilation of this report.

Meeting Shri Alok Shekhar and discussing the situation of PPP projects in India contributed a great deal to the project and helped in streamlining the research by focusing on case studies like DND and Delhi airport. The structure of the paper was decided, in which It was asked to take the major projects from different sectors. One being DND flyover and the second one is Delhi Airport and taking these two as benchmarks compare the current situation of highway and airport sectors.
Focus was to study the success and failure of the concerned projects, also to find out the main aim of PPP projects and conduct a study to see if the aim is met or not. Further some data regarding PPP projects in India can be collected from experts.

The main purpose of the meetings was to evaluate the merits and demerits of bidding process used and toll based highways and various the policy initiatives taken by the government in last decade to increase the efficiency of PPP projects in India. Projects have shown a lot of Improvement. In order to ensure transparency in the process the government has introduced model documents.

Discussed two-stage competitive bidding for award of concession contracts in place, two stage process in which private party need to submit Request for Qualification (RfQ) and Request for Proposal (RfP) documents either it’s a small or large projects. In the first stage technical evaluation is done and top 5 companies are selected and in the second stage they are asked to submit financial bids.

DND is taken as a benchmark and with the help of Mr. Praveen Mahto, current situation of highway projects was found and then comparison is made. Now we have come long way from projects like DND

Delhi airport case study was also briefly discussed and the focus was to find out the issues and the loopholes in the policy framework.

Meeting such reputed officials won’t have been possible without the mentor. The constant guidance helped a lot in moving in right direction
## 2.3 Meetings and Interviews

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Designation</th>
<th>Institution</th>
<th>Topic of Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 6, 2013</td>
<td>Ms. Anna Roy</td>
<td>Director</td>
<td>Department of Financial Services, Ministry of Finance</td>
<td>The actual scenario of PPP projects in India and correct policies are in place</td>
</tr>
<tr>
<td>June 10, 2013</td>
<td>Mr. Praveen Mahto</td>
<td>Director</td>
<td>Infra, Planning Commission</td>
<td>The Model Concession agreement available for different sectors on the website of Planning Commission.</td>
</tr>
<tr>
<td>June 25, 2013</td>
<td>Mr. Sidharth Kapur</td>
<td>CFO</td>
<td>GMR Airport</td>
<td>Point of view of Private Partners on PPP policies available and support required</td>
</tr>
</tbody>
</table>
3. Current Government Efforts

The government is committed to continue to create an enabling environment for PPP, by taking initiatives related to funds, schemes, processes, institutional structures as well as guidelines. To overcome the constraints the government has taken the following initiatives:

3.1 PPP Cells
The Government has supported PPP Cells at a State or sector level. The functions envisaged of a nodal agency, like PPP Cell is to are as follows: 4

- Identify, conceptualize and create a shelf of projects
- Recommend approval of suitable projects for implementation
- With the help of consultants assist in preparation of the pre-feasibility reports
- Appoint consultants to develop the projects
- Ensure rigorous adherence to managing effective and transparent tendering processes
- Create efficient machinery for PPPs
- Develop internal evaluation guidelines to evaluate and assess the projects, Ensuring dissemination to consumers, investors and other government entities on the benefits and procedures for PPP
- Monitor and review PPP projects under implementation also do inspection visits

3.2 PPPAC5
The Cabinet Committee on Economic Affairs of the Government has created the PPP Appraisal Committee (PPPAC), which consists of the following: a. Secretary, Department of Economic Affair b. Secretary, Planning Commission c. Secretary,

4 https://ppp.cgg.gov.in
5 http://pppinindia.com/approval-committees
Department of Expenditure; d. Secretary, Department of Legal Affairs; e. Secretary of the Department sponsoring a project.

Every PPP project is expected to obtain clearance from the PPPAC at the central level, it helps in safeguarding user and public interests and cap the contingent liabilities of the Government.

The PPPAC also encourages the use of standardized contracts, which lay down the standard terms about allocation of risks, liabilities and guarantees as well as service quality and performance standards, and standardised documents for bidding such as Model Request for Qualifications and Model Request for Proposals that have been notified.

3.3 Union Cabinet and Committees
Establishing parameters and targets for the performance of the sectors, as well as decisions to enhance investments are taken by the Union Cabinet and its Committees.

3.4 Standardization of Bidding and Concession Documents
The government has introduced model documents in order to ensure transparency in the process, Request for Qualification (RfQ) and Request for Proposal (RfP) documents have been prepared. There is a two-stage competitive bidding process for award of concession contracts. At the RfQ stage, bidders are shortlisted on the basis of their technical and financial capabilities. That is, the bidders who have the necessary technical skills and financial resources to implement the project are short-listed. The admissibility or otherwise of a bid is decided on the basis of the previous experience and the financial capabilities of the bidder. Doubtful and unsuitable bids are screened at this stage itself and some Bidders are selected and issued RfP documents for financial bidding. The objective of this stage is to select the best among the qualified bidders. An attempt is made to select the bidder who offers the best value for money to the public sector.
3.5 The Model Concession Agreement (MCA)
In addition, the introduction of the Model Concession Agreement (MCA) documents has gone a long way in streamlining and clarifying the PPP policy. MCAs have been prepared for BOT Annuity, BOT Toll, and BOT operation and maintenance (O&M) contracts. MCAs along with RfQ and RfP documents have provided an integrated institutional policy framework for implementation and identification of the project. All contracts are awarded on the basis of the MCA since January 1, 2007.

3.6 India Infrastructure Finance Company Limited (IIFCL)
In the Indian financial market, debts are generally available for duration of 7 to 8 years whereas infrastructure projects require much longer payback timeframe. Hence, inadequate availability of long term finance, both debt and equity, is a serious problem facing investors. This is partly due to the underdeveloped markets for long term debt. To mitigate this problem the government set up the IIFCL in January 2006. IIFCL is allowed to refinance infrastructure loans by banks and FIs as well as lend directly, subject to a limit of 20 percent of the project cost. IIFCL funding schemes gives priority to PPP projects.

3.7 India Infrastructure Project Development Fund (IIPDF)⁶
A major reason behind lacklustre performance of PPPs has been the non-availability of credible and bankable projects. Detailed Project Reports (DPRs) and Project Feasibility Reports (PFRs) are of poor quality and cannot be relied upon, because the public sector in India has little capacity to prepare quality project reports. It also lacks capacity to implement PPP contracts. At the same time, the bidders cannot be expected to prepare their own reports as the cost of transaction advisors for PPP projects is huge. Therefore, the government has decided to develop capacity in the public sector as to line up credible and bankable projects.

⁶ http://pppinindia.com/pdf/guideline_scheme_IIPDF.pdf
that can be offered through competitive bidding. IIPDF has been set up with an initial contribution of Rs 100 crore. It is meant to help meet project development costs of public sponsoring agencies of infrastructure projects. It can assist to meet up to 75 percent of the project development costs. The costs are recovered from the successful bidder.

3.8 Several fiscal and other incentives to attract private investors to road projects. The following are the additional initiatives of the new PPP policy:

- Declaration of road sector as an industry, for easy borrowing
- Longer concession periods (up to 30 years).
- Easier external commercial borrowing norms.
- FDI including foreign equity participation up to 100 percent in the highways is allowed for BOT projects.
- Provision of encumbrance free site for work, i.e. government bears expenses for land and pre-construction activities.
- MRTP provisions have been relaxed to enable large firms to enter the highway sector.
- Duty free import of modern high capacity construction equipments has been allowed.
- For the purpose of tax concession, Treating housing and other development Activities which are integral part of highway project, as a part of infrastructure 100 percent tax holiday for any 10 consecutive years out of 20 years after commissioning of the project.

3.9 National PPP Capacity Building Programme

The National PPP Capacity Building Programme was launched by the Union Finance Minister (FM) at the India PPP Conclave held in December 2010. The programme found special mention in the FM’s Budget speech in February 2011.

7http://www.ey.com/Publication/vwLUAssets/Accelerating_PPP_in_India/$FILE/Accelerating%20PPP%20in%20India%20-%20FINAL%28Secured%29.pdf
Over the period of next 3 years, the programme expects to train 10,000 senior and middle-level government officials to improve capacities among government officials in preparing and managing PPP projects across various infrastructure sectors. The training material has been organized into five distinct course offerings in an easy to use structure, with extensive guidance as well as explanatory notes and tips, cross-referencing and additional material which can also be used by the trainees for subsequent revisions and reference.

3.10 Public Private Partnership (Preparation, Procurement and Management) Rules 2011

Pursuant to the decision on the recommendations of the Committee on Public Procurement, a Committee has been constituted in Department of Economic Affairs to formulate the Rules for PPP projects, including rules for regulating expenditure, appropriation of revenues, contingent liabilities, etc. in PPP projects and proposed delegation of powers in this regard.

3.11 The draft Public Private Partnership Rules 2011  

Department of Economic Affairs, Ministry of Finance has prepared the draft Public Private Partnership Rules 2011. For sustaining investor interest in upgradation and maintenance of highways on DBFOT basis, a precise policy and regulatory framework is being spelt out in this are typically important for limited recourse financing of infrastructure projects, such as mitigation and unbundling of risks; allocation of risks and rewards; symmetry of obligations between the principal parties; precision and predictability of costs and obligations; reduction of transaction costs; force majeure; and termination. It also addresses other important concerns such as user protection, independent monitoring, dispute resolution and financial support from the Government. The MCA also elaborates on the basis for commercializing highways in a planned and phased manner through optimal utilization of resources on the one hand and adoption of International best practices on the other hand. The objective is to secure value for public money and

---

provide efficient and cost effective services to the users Model Concession Agreement (MCA).

3.12 The Secretariat for Infrastructure

The Secretariat for Infrastructure in the Planning Commission is involved in initiating policies that would ensure time-bound creation of world class infrastructure delivering services matching international standards, developing structures that maximize the role of public-private partnerships (PPPs) and monitoring progress of key infrastructure projects to ensure that established targets are realized.

3.13 The Cabinet Committee on Infrastructure (CCI)

The Cabinet Committee on Infrastructure (CCI), under the Chairmanship of the Prime Minister, was constituted on July 6, 2009. It substituted the Committee on Infrastructure which was set up on 31st August, 2004 under the chairmanship of Prime Minister. The CCI approves and reviews policies and monitors implementation of programmes and projects across infrastructure sectors.

3.14 The Initiatives in Airport Sector

The Committee on Infrastructure has initiated several policy measures that would ensure time-bound creation of world-class airports in India. A comprehensive civil aviation policy is on the anvil. An independent Airports Economic Regulatory Authority Bill for economic regulation is also under consideration.

- The policy of open skies introduced some time ago has already provided a powerful spurt in traffic growth that has exceeded 20% per annum during the past two years.
- Major airports such as Chennai and Kolkata are also proposed to be taken up for modernization through the PPP route.
- To ensure balanced airport development around the country, a comprehensive plan for the development of other 35 non-metro airports is also under
preparation. These measures are expected to bring a total investment of Rs. 40,000 crore (USD 8.312 billion) for modernization of the airport infrastructure.

- A Model Concession Agreement is also being developed for standardizing and simplifying the PPP transactions for airports, on the analogy of the highways sector.
- This would include upgrading of the ATC services at the airports. Issues relating to customs, immigration and security are also being resolved in a manner that enhances the efficiency of airport usage.
- A Greenfield airport is already operational at Bangalore and the one at Hyderabad, built by private consortia at a total investment of over USD 800 million, will be operational soon.
- A second Greenfield airport being planned at Navi Mumbai is planned to be developed using public-private partnership (PPP) mode at an estimated cost of USD 2.5 billion.
- 35 other city airports are proposed to be upgraded through PPP mode where an investment of USD 357 million is being considered over the next three years.
4. Results and Discussions

4.1 Findings from theoretical readings and literature surveys

4.1.1 The website of PPP, India elaborates the framework, case studies, financing, developers, PPP toolkit, mainstreaming of PPP projects, approval committees, regulations and forms, Reports and policy documents, PPP headlines and the Draft National Policy 2011. This contains all the policy initiatives discussed above that are followed in India presently. The sector wise share of PPP was found:

Source: PPP India Database

Figure 4: PPP projects in India by sector and by value

4.1.2 Dr. Ram Singh’s paper ‘PPP: A means or an end?’ The key finding was that provision of a public good or service through PPP is not indisputably superior. Its cost and benefits vary from project to project. There have been lot of steps taken by government in favour of private players which are not socially desirable like to make projects attractive for private investment, the PPP Appraisal Committee has
been allowed to increase viability gap funding (VGF)/grants for Phase V projects of NHDP. The government is ready to bend over backwards to ensure success of ongoing projects. Several PPP contracts for roads and airports have been renegotiated in favour of investors.

**4.1.3** Main findings were the basic information regarding DND. Infrastructure Leasing and Financial Services Ltd. (IL&FS) promotes the Noida Toll Bridge Company Ltd. (NTBCL) as a special purpose vehicle (SPV) to develop construct, operate and maintain the DND Flyway on a Build Own Operate Transfer (BOOT) basis. The Flyway has been built with due care for environmental concerns. The project was commissioned almost 4 months ahead of schedule on February 7, 2001 and broadly within the budget.

**4.1.4** As mentioned in the report 'Government for the Independent regulator to promote PPP projects' an independent regulator can make PPP projects more efficient and thought of it as one of the recommendations.

**4.1.5** As per the website of Indian Infrastructure contains all the information about PPP projects in India, It was found out that Secretariat of Infrastructure, Planning Commission is the one who initiates policies that ensures creation of world class infrastructure on time delivering international standard services, developing structures that maximize public-private partnership’s (PPPs) role in India and monitoring progress of key infrastructure projects to ensure that established targets are realized. It includes information about all the regulations , two stage bidding process, modal concession agreements documents followed now, Infrastructure finance, reports, tenders, recent events, Database of PPP projects, library of bid documents and website also contains case studies of almost all major PPP projects in India. All this information helped me compare my benchmark project DND with the present scenario where standardized contracts and modal concession agreements are followed. Comparison is made on these grounds only and then analyses if all the problems that DND was facing has been overcome or not like the contract was not well defined, it was a lot in favour of private players,
bidding process was not transparent, cost over runs were huge but now because of the policy initiatives by the government India has been successful in overcoming the loopholes that PPP was facing initially. It has become more efficient now.

**4.1.6** As per DND’s website the first Toll Plaza in India to be certified ISO: 9001: 2008 compliant for excellence in the field of Operations and Maintenance and Customer Services. The users have 3 convenient options for payment of toll, namely gold, silver and cash.

**4.1.7** ‘Distribution of Highways PPP in India: Key legal and economic determinants’ deals with the performance of the Public Private Partnerships (PPPs) programme of Government of India, for development of highways and expressways. The focus of the study was to see why have some projects attracted private investment while others have not? Why only a few states have attracted PPPs, while some others have completely failed to do so?. It also deals with some other issues related to the PPP policy and its limited success. A set of legal and economic variables explained the skewed distribution of PPPs across the states as well as across projects. The key finding was that the richer states have attracted more PPPs than the poorer ones. Also, the probability of PPP is higher for projects located closer to mega cities and those located on national highways connecting richer states. Main learning was that the quality of governance, in terms of the level of property rights protection, in a state is a significant explanatory variable.

**4.1.8** As per DND flyaway concession agreement, case study of Delhi Noida bridge by Planning Commission. The Delhi Noida toll bridge project was awarded in 1997. The case study illustrated the need to follow good practice in both contract design and the process of awarding contracts, and the potential pitfalls of not doing so. The contract does not give any role to the Authority to assessing the reasonableness of capital and operational costs reported by the concessionaire. It also guaranteed annual returns of 20% on the total project costs, and not on equity alone. Shortfalls in returns for previous years result in a corresponding increase in project cost, on which further returns are payable. As a result, the initial capital
cost of Rs. 408 crore, as determined by the concessionaire, had risen to Rs. 953 crore as on March 31, 2006. Also, since the contract provides for the term of the concession to be extended until the concessionaire recovers the total cost of the project and returns thereon, the concessionaire has noted that it is now entitled to hold the concession for a period of 70 years as against the 30 years initially contemplated in the agreement. In addition, the concessionaire has received ‘in principle’ approval for development rights over 30.5 acres of prime urban land in Noida, as a supplementary source of returns. In view of these outcomes, the paper concludes that if concessions are to serve the public interest, it is vital to ensure a robust contract design that relies on open competitive bidding and elimination of conflicts of interest

4.1.9 An article from Central Right India’s website ‘Delhi-Noida Toll Bridge-Loot in the name of Public-Private Partnerships’ mentions the toll rates for the 22-km Delhi-Noida Direct (DND) flyway were increased from 1st April, 2013 by the Noida Toll Bridge Company Limited (NTBCL). Two wheelers toll rates have been increased from Rs 11 to Rs 12, for cars from Rs 22 to Rs 25, LCVs from Rs 45 to Rs 55, bus and truck will now shell out Rs 70 from earlier Rs 55. Large vehicles will pay Rs 100 from existing Rs 75 and extra-large vehicles from Rs 95 to Rs 135. This is not the first hike. DND flyover is a classic case of how Public Private Partnerships (PPP) can be used by the corporate-bureaucratic-politician nexus to loot the nation.

4.1.10 Analyzed the Model Concession Agreement for PPP in National Highways available at infrastuctue.govt.in. A precise policy and regulatory framework is mentioned in this Model Concession Agreement (MCA). The MCA also elaborates on the basis for commercializing highways in a planned and phased manner by utilizing the resources optimally on the one hand and adopting international best practices on the other hand. Together with the Schedules, the proposed contractual framework deals with the issues those are likely to arise in financing of highway projects on DBFOT basis. The proposed regulatory and policy framework
contained in the MCA is a pre-requisite for attracting private investment with improved efficiencies and reduced costs, necessary for accelerating grow

4.1.11 In Case Study by Planning Commission- “Commercial use of land at Delhi and Mumbai Airports- An analysis of the questions of law and public policy” it was found that in June 2003, the Airports Authority of India (the “AAI”) had approved a proposal for the modernization of the Delhi and Mumbai airports through Public Private Partnership (PPP). The bidding process began in May 2004, it was full of controversies. One major issue that was with respect to the legality of permitting the proposed Concessionaire to develop the airport for commercial uses unrelated to the airport, especially with reference to the provisions of the Airports Authority of India Act, 1994. This issue had significant financial and policy implications for the bidding process. Further, it would also determine the pattern of airport development during the proposed concession period spanning 60 years. Since there was a difference of opinion on the issue between the constituents of the Inter-Ministerial Group that was finalizing the transaction documents, it was decided to seek the opinion of the Solicitor General of India (the “SGI”), and thereafter, of the Attorney General of India (the “AGI”). The final decision was taken by the Empowered Group of Ministers.

4.1.12 As per the case study by IIM A, the concession agreement for the modernization and operation of Indira Gandhi International airport in Delhi referred to as Operation Management and Development Agreement (OMDA). The OMDA was a part of a set of transaction documents along with the request for proposal provided to bidders. The OMDA laid out the contractual terms for structuring the project through PPP. The paper discusses the evolution of the draft OMDA from when it was first released in April 2005 to the bidders till it was released as a final OMDA in August 2005 before an extended bidding date. During this period, there were critical issues. Some of them which got addressed were: limits to commercial development of airport land, nature of tariff regulatory regime, contingent liabilities including performance bonds and termination payments, and potential contractual and strategic conflicts. It brings out the intra-
governmental issues and processes, and the significant learning that formed part of these PPP concessions, which could well be among the largest in the world.

4.1.13 The CAG report on the Delhi airport said that the decision by the Civil Aviation Ministry to award the contract for the Delhi airport to GMR caused huge losses to the tax payers and passengers. It claims that land was given to the company at much lower rates than even to government organizations like the DGCA and the BCA. The CAG has pegged the losses at about Rs 3750 crore.

DIAL entered into Operations, Management and Development Agreement (OMDA) on April 4, 2006 with the AAI.

Table 2: The components adopted by DIAL to finance the project cost

<table>
<thead>
<tr>
<th>Funding (1)</th>
<th>Cost as per estimates in January 2008 (2)</th>
<th>Final cost in March 2010 adopted by AERA (3)</th>
<th>Cost Escalation (Percentage) (b) - (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amount (a)</td>
<td>% of total cost (b)</td>
<td>Amount (a)</td>
</tr>
<tr>
<td>Equity</td>
<td>1202</td>
<td>13.30</td>
<td>2300</td>
</tr>
<tr>
<td>Loans</td>
<td>4986</td>
<td>55.55</td>
<td>5266</td>
</tr>
<tr>
<td>Security deposits</td>
<td>2738</td>
<td>30.51</td>
<td>1471.51</td>
</tr>
<tr>
<td>Internal accruals</td>
<td>49</td>
<td>0.55</td>
<td>50</td>
</tr>
<tr>
<td>DF</td>
<td>Not Envisaged</td>
<td>Not Envisaged</td>
<td>3415.35</td>
</tr>
<tr>
<td>Total</td>
<td>8975</td>
<td>100</td>
<td>12502.86</td>
</tr>
</tbody>
</table>

Source: Implementation of Public Private Partnership Indira Gandhi International Airport, Delhi, CAG

From the above it is clear that as per the original estimates the entire funding was to be through equity, debt, security deposits and internal accruals. However, as is seen above, this was reduced to 72.68 per cent of the total fund requirements of the actual project cost. This financial gap was mainly filled by levy of DF which constituted 27.32 per cent of the total capital outlay. OMDA did not envisage the funding of project cost through levy of DF from passengers since the entire funding
was to be through debt and equity only. Thus the inability of the shareholders of DIAL to bring in additional funds to the project through additional debt from financial institutions led to levy of DF on passengers.

This report also deals with the steps in PPP process.

Source: Implementation of Public Private Partnership Indira Gandhi International Airport, Delhi, CAG

Further it was found from CAG report that according to Article 8.5.7 (d) every such
contract entered into by the JVC shall be on an arms length basis. An arms length transaction is defined by Institute of Chartered Accountants of India (ICAI) as “transaction between parties that do not have a particular or special relationship that makes prices of transactions uncharacteristic of market conditions. The transaction is presumed to be between unrelated parties each acting independently.” Equity participation of DIAL in these JVs makes these contracts not on arms length. Since neither the Government nor the AAI has exercised any access to the books of accounts of these JVs, it can never be ascertained whether the revenue passed on as share of DIAL is indeed correct.⁹

---

⁹ Implementation of Public Private Partnership Indira Gandhi International Airport, Delhi, CAG
Source: Planning Commissions Website

**Figure 6: Equity and revenue share of DIAL in JV**
Source: Implementation of Public Private Partnership Indira Gandhi International Airport, Delhi, CAG

Figure 7: DIAL’s financing of the Project

Out of the total capital expenditure of `12857 crore claimed by DIAL, AERA has admitted `12502.86 crore as the total project cost. The funding gap to the tune of `3415.35 crore was permitted by AERA to be collected from the passengers through levy of DF which was not envisaged in OMDA and SSA. As would be seen from the above, out of the total capital expenditure of `12857 crore, the promoter’s equity has been `2450 crore out of which 26 per cent is contributed by AAI. 74 per cent of the equity capital of `2450 crore is `1813 crore. Out of the capital expenditure of `12857 crore, only 19 per cent of the capital expenditure has been promoters’ contribution. `5266 crore have come from loans and `1471 crore has come from Security Deposits. While only `50 crore has come from internal accruals, `3415.359 crore have come from Airport Development Fees. It was also noted in audit that in case of Indira Gandhi International Airport, the contribution of internal accruals has been the barest minimum. It was only `50 crore. In case of Mumbai airport, internal accrual was `1999 crore.10

4.1.14 The case details the ‘Terminal 3 for Delhi Airport’ project to explain the role and importance of PPP in overcoming infrastructure deficit. It also explains the

10 Implementation of Public Private Partnership Indira Gandhi International Airport, Delhi, CAG
different features of Terminal 3 (T3) which go to make it a world class airport terminal. In the end, the case study covers the limitations of the PPP model. The case study helps to understand the role of PPP and provides scope for discussions on how to overcome the limitations of PPP. It also provides ample scope for discussing how T3 was completed in just 37 months and what the upcoming infrastructure projects can learn from this project. This case is meant for MBA/MS students as part of a project management curriculum. The main aim of this case:

1) Understand the importance of Public-Private Partnership initiatives, especially in emerging markets, to bridge the ‘infrastructure deficit’
2) Understand the salient features of Delhi Airport’s Terminal 3 (T3) project and analyze all the features that have contributed to the completion of T3 project in a record 37 months
3) Discuss and debate what T3’s record completion in 37 months means for PPP initiatives and what best practices this project execution offers for future PPP initiatives in the infrastructure sector.

4.1.15 A case study by Planning Commission “Bidding Process for the Delhi and Mumbai Airports” elaborates and discusses the bidding process of Delhi and Mumbai Airports in detail and stated that the bidding process for the selection of concessionaires for the Delhi and Mumbai airports was a controversial one. It involved much discussions and arguments in different government fora including the Empowered Group of Ministers at the helm. Amid rumours of criticism, the bid process was steadily moving towards the award of the Delhi airport in favour of a particular bidder, thanks to the flawed evaluation by the international consultants of the Airport Authority of India. Close to the conclusion of this process, one of the constituents of the inter-ministerial fora laid bare the infirmities of the evaluation scores. This led to much debate within the government and extensive coverage by the media. Once in the public domain, the entire process became open and transparent. It led to a fair outcome that not only withstood the scrutiny of the Supreme Court but was also free of any criticism in the media or Parliament. This reflected a complete swing of the pendulum, from a process that was regarded as manipulated to one
that was entirely fair and transparent. This case study demonstrates the fragility as well as the strengths of the system in dealing with these two mega projects.\textsuperscript{11}

\textbf{4.1.16} GMR's website explains that in January 2006, the consortium was awarded the concession to operate, manage and develop the IGI Airport following an international competitive bidding process. DIAL entered into Operations, Management and Development Agreement (OMDA) on April 4, 2006 with the AAI. The initial term of the concession is 30 years extendable by a further 30 years.

Besides upgrading the existing terminals, DIAL has already commissioned a new runway 11-29 at IGI Airport on September 25, 2008. It has also inaugurated the new domestic departure terminal 1D (T1D) on 26th February, 2009. T1D will increase the capacity of domestic departures to 10 million passengers per annum.

In March 2010, DIAL has completed the construction of integrated passenger terminal (Terminal 3). The first phase of the airport is designed and capable to handle 60 million passengers per annum (mppa). This development was the first phase of the airport expansion. In subsequent stages, the airport will be further developed with the increase in passenger demand and more terminals and runways would be added in a modular manner to form a U shaped complex with an ultimate design capacity of 100 million passengers per annum.

\textsuperscript{11} Bidding Process for the Delhi and Mumbai Airports, Planning Commission
4.2 Finding from the meetings and impact on the theoretical focus

The meetings with Ms. Anna Roy, Director, Department of Financial Services, Ministry of Finance, Government of India and the Director of Corporation Bank and Mr. Praveen Mahto, Director Infra, Planning Commission played a very important role in the research. As per these officials the current policy framework is not the problem instead the implementation issues are the problem. Ms. Anna Roy was the part of appraisal committee for quite a long time so she knew the ground realities of PPP in India.

The actual scenario was portrayed and also the correct policies that are in place. As per her suggestions, comparison between DND and some recent highway project is conducted, because DND is a very initial project when proper mechanism was not in place so evaluating the effect of new policy with the help of DND is a good idea.

Mr. Praveen elaborated on the Model Concession agreements available for different sectors on the website of Planning Commission. It was advised to find out the issues from case studies and information available about DND flyway and see has the new policies able to address the issues The key finding was that Hyderabad Metro is one of the most efficient example of PPP in India.

Also Government has taken many policy initiatives in last decade to increase the efficiency of PPP projects in India. Projects have shown a lot of Improvements as well. In order to ensure transparency in the process the government has introduced model documents.

The main contribution of these meetings is that DND is taken as a benchmark and compared with the present scenario where Model Concession Agreements are set in place. Now we have come long way from projects like DND.
It was realized that the most improvement point is selection criteria, there is be no opaqueness, it should be highly transparent. At the time of awarding contract itself each and every point should be covered and all uncertainty should be addressed. So the important recommendation is, every PPP project should be awarded by the way of fair competitive bidding only. Earlier because every company has to come up with their own contract there was a lot of transaction cost involved but now there are standard contracts used. Model agreements are developed in metro, highway, port, airport etc. Final selection evaluation should be objective not subjective like in the case of Delhi and Mumbai International Airports like in that case they were asked to submit their plan of action and management and proposals if the concession period if 60 years and given various situations but the outcome of this was far from satisfactory. After this it was realized that everything can go wrong if final evaluation is that much subjective. The process was not transparent and was not even accountable. Hence selection is most crucial, right partner needs to be selected. Also as a private player you should not leave or get any approval after getting selected.

Government should give everything upfront. By this the uncertainty decreases as well. Earlier Item rate contract was followed and was source of corruption. When it was changed there was lot of opposition but things changed and are highly transparent now. Now it’s more about output specification instead of input specification.

The main problem that still exists is DPR (detailed project report) is poorly made. People bid really high than required. People prefer BOT (annuity), so one solution is we can have a regulatory on the rack to look after. And there are still some implementation issues. There is a need to convince big investors and promote PPP. The main important issues are in land acquisition, environment clearances, and statutory clearances etc but because of these we can’t blame PPP as a policy. So to see the success of the project we can judge the performance on parameters like was the project timely completed, if cost overruns are there and compare it with government funded projects.
Regarding the case study of Delhi airport, with a aim of knowing the ground realities and the point of view of Private partners on the policy framework available a meeting with Mr. Sidharth Kapur, CFO, GMR Airport was fixed.

![Diagram: Modernization and restructuring of IGI Airport at Delhi]

The airport being managed by Delhi International airport Pvt. Ltd.

**Figure 8: Modernization and restructuring of IGI Airport at Delhi**

When asked how supportive and helpful the Government is it was identified that government has been really supportive in terms of all the approvals, agreements, Financial aid etc

In a report titled "Implementation of Public Private Partnership, Indira Gandhi International Airport, Delhi" the Comptroller and Auditor General of India (CAG) has found faults in almost every step of implementation of the Public Private Partnership (PPP) model in the brown field privatization of New Delhi's Indira Gandhi International Airport (IGIA). Regarding the controversial report by CAG on Delhi airport project. The report accuses the Ministry of Civil Aviation, headed by Mr. Patel, of violating laws, and providing post contractual benefits to DIAL, to the detriment of the government as well as the travelling public. But it was identified that there were no post contractual changes or renegotiations. Bidding was fair.
It was found that the major issue with PPP in India is that it is treated more like a public project so to make it more efficient private players need autonomy. They want government to design proper contract and all clauses and after that just leave it to private player and let them work accordingly. PPP should be kept away from imposition of bureaucratic hurdles.

Private Players think that keeping PPP project out of purview of RTI act will result in increasing the efficiency as there is more pressure on concessionaire while working because of this clause they need their freedom to work as a private party. So according to Mr. Sidharth Kapur RTI should not apply.

Use of Model Agreements in airport sector like highways was thought of one solution before this interview but it was found that Model agreements cannot be used as each airport is very different project like Delhi airport is a brownfield project.

There should be a proper mechanism for renegotiation in between if required but should be avoided. And this should be mutual and rational. Hence main thing is that agreement should be clearly drafted like GMR says it was efficiently designed in case of Delhi airport.

SSA covers all the performance standard agreement which need to be strictly followed by the concessionaire, and these are strictly followed in case of Delhi airport. But one problem is there are no performance standards for other stakeholders, which need to be in place.

Government over regulation instead of increasing efficiency end up decreasing it, in case of Delhi airport project GMR appointed KPMG and Engineer India as regulators to look into matters like is cost increase fair or not and if infrastructure in build in time or not.
Delhi Airport Terminal 3 was built in just 37 months because of Commonwealth Games held in Delhi in 2010 so it was examined if time pressure was a problem. It was found that yes because of time bounds GMR had to face a lot of issues like many contractors were not ready to take the risk and it also led to cost over runs in some sense.

In contrast to CAG report, Mr. Sidharth Kapur says that there were no post bidding changes and passenger fees is lowest if compared to other airports all over the world.

The main focus of the case studies is to see have changes in policies made PPP really efficient, find out the issues and challenges, recommend changes and how we can handle implementation issue and improve efficacy.
4.3 Gap analysis

In the past five to six years, India’s PPP program has grown rapidly. In 2002–06 more than 150 PPP deals were there, compared with 66 in the previous seven years.

Source: Price Water Cooper 2007

Figure 9: Climb in number and value of PPP projects in India 1995-2006

This growth was mainly in the transport and urban infrastructure sectors, with road projects accounting for a large share of the increase, particularly in the number of projects. India’s government had been concerned that local financial markets would be unable to support continued large growth in investment in PPPs. The World Bank, with financial support from PPIAF, undertook a detailed review of financing patterns and trends and the constraints to expanding PPP financing as perceived by market participants.

In 1995–2007 senior debt accounted for 68 percent of project financing on average, the rest took the form of equity (25 percent), subordinated debt (3 percent), and government grants (4 percent), typically “viability gap” grants
provided during construction to PPPs deemed economically desirable but not financially viable. Of the senior debt, about 70 percent was provided by commercial banks, four-fifths of this by public sector banks. The rest of the total debt financing came from institutional lenders (around 23 percent), with 5 percent provided by the International Finance Corporation. Bond markets were used sparingly. The use of subordinated debt also remains limited. Its use has become more common, however, particularly in the road sector, which has the largest number of projects and the greatest acceptance by financial markets. But most of the subordinated debt has been provided by the senior lenders themselves.

On the equity side, more than 80 percent came from project developers, with the next largest contributor being the public sector. Strategic investors made direct equity investments in the special-purpose vehicles established to implement the PPPs for only nine projects in the sample. These investments totaled almost $167 million (6 percent of the total equity), most of it in the airport sector. Equity investments by financial institutions provided the rest.  

Talking about PPP in general, from initial period if we see the schemes, policies, efforts in PPP, there were no proper framework and rules defined, there was lot of corruption. Earlier item rate contracts were used where changes of corruption are even higher. There was so defined contract or agreement, disputes redressal mechanism was not in place. The criteria of awarding contracts was not transparent, The contract does not give the Authority a role in assessing the reasonableness of capital and operational costs reported by the concessionaire. One set of issues concern the efficiency properties of these contracts and the governing laws.

There was no clear separation between the roles of the public authority and the private sector. There exists lot of issues in PPP. Most sectors face a lot of hindrance

12 http://www.pppinindia.com and Department of Economic, Affairs PPP Cell
in enabling a regulatory framework as well as a consolidated policy. So it’s important to convert such policies into PPP friendly.\footnote{http://www.scribd.com/doc/49468955/DND}

To achieve the desired results, active participation of various state projects are essential. Lack of ability of private sectors to fit into the risk of investing in diversified projects also needs to be overcome.

Prominent issues are weakness in enabling policy and regulatory framework. Substantial work need to be done in making sector policies and regulations PPP friendly. A large number of these projects are in the States and without the active participation of the States it would not be possible to achieve satisfactory results. The market presently does not have adequate instruments and capacity to meet the long-term equity and debt financing needed by infrastructure projects. There is also a lack of shelf of credible, bankable infrastructure projects. This could be offered for financing to the private sector.

Public institutions are not able to manage the PPP process. Lack of credibility of bankable infrastructure projects used for financing the private sector needs to be overcome.

Several initiatives have been undertaken by Indian Government to enable a greater PPP framework in order to eradicate the constraints like encouraging foreign as well as private investments by waving off charges. Standardized contractual documents have been devised which lays down the terminologies related to risks, liabilities and performance standards have streamlined Approval schemes for PPPs. For the purpose of virtual PPP market a website has been launched which serves as an online database for PPP projects.
Table 3: PPP projects Process Management

<table>
<thead>
<tr>
<th>PPP Projects Process Management</th>
<th>Initiatives by Ministry Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Identification</td>
<td>Expert support to the PPP Cells through PPP and MIS consultants and legal advice under Asian Development Bank Technical Assistance Programme</td>
</tr>
<tr>
<td>Preparation of Initial Screening Report (ISR)</td>
<td>Sector specific need assessment workshops</td>
</tr>
<tr>
<td>Approval of the ISR and the Project by the Government/Statutory Authority</td>
<td>Training officers on PPPs project financing, risk assessment &amp; management</td>
</tr>
<tr>
<td>Project development studies, including demand assessment, environmental assessment, cost estimates, risk management mechanism &amp; financial structuring of the project</td>
<td>Exposure of best practices</td>
</tr>
<tr>
<td>Development of contractual structure &amp; preparation of concession agreement &amp; bid document</td>
<td>Pre-bid grading of projects &amp; risk valuation</td>
</tr>
<tr>
<td>Bidding process</td>
<td>Transaction Advisors</td>
</tr>
<tr>
<td>Selection of Private Sector Investor/Developer</td>
<td>India Infrastructure Project Development Funds for project development expenses</td>
</tr>
<tr>
<td>Signing of Concession/Contract Agreement</td>
<td>Standardised contractual/bidding documents</td>
</tr>
<tr>
<td>Monitoring performance &amp; cost</td>
<td>Online toolkit and manual</td>
</tr>
<tr>
<td>Support for making projects commercially viable</td>
<td>Viability Gap Funding</td>
</tr>
<tr>
<td>Access to long term debt finance</td>
<td>Finance through IIFCL</td>
</tr>
</tbody>
</table>

Source: http://www.pppinindia.com and Department of Economic Affairs, PPP Cell

Talking about problems specifically with Delhi Noida Bridge:

- The concession for the Delhi Noida bridge project was not awarded competitively
- The terms of the concession agreement for the Delhi Noida bridge project were highly in favour of the private partner
- It was mentioned in the contract that concessionaire will get 20 percent return over total costs, but it was not clear as the contract does not put a cap on project cost and total cost of the project, costs were basically open ended and if not covered concession period would be expanded like it has been expanded from 30 years to 70 years now
• The shortfalls in recovery of returns were included in the total cost, this substantially removes traffic risk from the concessionaire, and also increases the total amount due to the concessionaire.

• There is no incentive to minimize cost because the costs were completely passed on to consumers.

• The concessionaire does not bear any significant commercial risk.

• The construction completion risk, which should more appropriately fall to the concessionaire, was shifted to NOIDA.

• The power to “determine, demand, collect, retain and appropriate” the fee for use of the Noida bridge was given to private player instead of the government.

• The concession agreement does mention the penalty payments or sanctions for not adhering to performance specifications/standards.

• Under the agreement NOIDA undertakes not to build a competing facility for a period of 10 years or till the NOIDA bridge reaches its Full Rated Capacity.
5. Recommendations, Scope and Strategy for Implementation

**Reasons:** In most of the projects the main issue is bidding on is not fair because of which sometimes we end up choosing less deserving candidate. Private Partners selection is the most important step which has to be done carefully and a fair way because rest of the project, its implementation, efficiency depends on the private party itself.

**Recommendation 1:** The most important recommendation is that all the projects should be awarded on the basis of Competitive bidding only. To get best technical and financial offer, the authorities should start interacting with private sector from the project development activities only and all the concerns of the bidders should be taken into account. And there should not be excessive focus on highest financial bids because speculative bids hamper the project in the long run

**Scope:** This will lead to selection of the most deserving private party and hence increases the efficiency of the projects.

**Strategy:** The two stage process already in place should be followed with more transparency and after each stage name and basis of selection of private partners should be declared and provided in written.

*Figure 10: Recommendation 1*
**Recommendation 2:** An independent Institution structure for handling PPP program

**Reasons:** There is no independent PPP regulator which is required to attract more domestic and international private funding of the infrastructure

**Scope:** With the objective of meeting the PPP targets, an independent institute should be set up to act as nodal agency with the responsibility of creation of PPP database. Best practices, model documents for all sectors and coordination with all departments. This will have a positive impact on efficiency level

**Strategy:** Government should set up a nodal agency at central level

---

**Recommendation 3:** Issues related to land acquisition and environment clearances should be taken into consideration

**Reason:** The project development activities such as land acquisition, environment or forest clearances etc. are not given adequate importance by the concessioning authorities, this is because of the absence of adequate project development by authorities. It leads to poor bid response, delays in time of execution, sometimes leads to disputes and mispricing

**Scope:** This will lead to timely completion of projects and also will help in reducing the cost over runs

**Strategy:** The authorities should try to get all approvals and latest feasibility reports with technical scope of work before awarding concessions
**Recommendation 4:** Broadening of the sources of financing is required for growth of PPP, so policy reforms in capital market are required. And also there is a need to develop corporate bond market.

**Reason:** There is huge investment required for PPP projects so to raise debt private sector is dependent upon commercial banks. But banks alone cannot fund all projects due to sectoral limits.

**Scope:** If financial constraints are removed more and more private parties will bid, also it will be easy to complete projects timely and efficiently.

**Strategy:** Set up infrastructure Debt Funds. Also commercial banks while funding the project can compulsorily fund some part of debt by subscribing bonds.

---

**Recommendation 5:** Decentralization—Policies should be different for different sectors and even different states.

**Reason:** Use of Model Agreements in airport sector like highways was thought of as one solution before this report but it was found that Model agreements cannot be used as each airport is very different project like Delhi airport is a brownfield project some are Greenfield also the place. Investment everything is different we cannot generalize.

**Scope:** This will give enough flexibility to private partners as well government and hence will take into account the specific issues.

**Strategy:** There should be authorities at state level as well as sectoral level which deals with all the policy recommendations in the specific sectors and also take care of the designs of the agreements and contracts.

---

*Figure 13: Recommendation 4*  
*Figure 14: Recommendation 5*
Recommendation 6: Keep PPP projects out of purview of RTI act and should be kept away from imposition of bureaucratic hurdles

Reason: Private Players think that keeping PPP project out of purview of RTI act will result in increasing the efficiency as there is more pressure on concessionaire while working because of this clause they need their freedom to work as a private party. It was found that the major issue with PPP in India is that it is treated more like a public project so to make it more efficient private players need autonomy. They want government to design proper contract and all clauses and after that just leave it to private player and should be kept away from imposition of bureaucratic hurdles.

Scope: This will give enough flexibility to private partners as well government and hence will increase the efficiency of private players.

Strategy: RTI act has to be amended by the government to keep PPP out of its purview.

Figure 15: Recommendation 6

Recommendation 7: Performance standard Agreements for other stakeholders than the concessionaire needs to be in place.

Reason: SSA covers all the performance standard agreements which need to be strictly followed by the concessionaire. But one problem is there are no performance standards for other stakeholders, which need to be in place.

Scope: This obliges other stakeholders to perform better and hence will lead to efficiency overall.

Strategy: SSA should define Performance standard agreements to all the stakeholders of the PPP project and should inform them while initiating its work only.

Figure 16: Recommendation 7
**Recommendation 8:** The Government should also take necessary steps to implement the PPP project in other states where PPP are not attracted as of now

**Reason:** There are only few states which have attracted PPP even after so many policies in place because of property right issues and weak regulatory mechanism

**Scope:** This will help in overall development and inclusive growth of the economy. There are huge infrastructural bottlenecks in poorer states rather than metropolitan cities

**Strategy:** This can be done by giving to private players to invest in PPP projects in poorer states by giving incentives like higher returns, cheaper inputs and also by improving the policies in poorer states because the main issue is with the policies and property rights

---

**Figure 17: Recommendation 8**

**Recommendation 9:** In the contracts, clauses which restrict other projects to be carried out in the nearby area should not be allowed

**Reason:** Day by day population is increasing and so is the demand for infrastructure

**Scope:** This will help in removing the restriction on supply of projects and also protect customers from monopolist’s exploitations

**Strategy:** Government or Nodal agencies can include this in the draft rules, 2011 and modal agreements

---

**Figure 18: Recommendation 9**
Some other issues and recommendations are as follows:

**Table 4: Some Issues and Recommendations**

<table>
<thead>
<tr>
<th>Issues</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Huge cost overruns and no transparency</td>
<td>Project capital and operational costs should be capped. The bearer of these costs should be able to check they are reasonable.</td>
</tr>
<tr>
<td>Main issue is the problems faced while environment clearances and land acquisition</td>
<td>Stringent norms of environmental protection, land acquisition and environment clearances required</td>
</tr>
<tr>
<td>Financing is a major problem as investment requirements are huge</td>
<td>Broadening of the sources of financing is required for growth of PPP, so policy reforms in capital market are required</td>
</tr>
<tr>
<td>Foreign investment still low</td>
<td>To attract global investment funds for infrastructure, India’s PPPs need to offer returns comparable to those in other markets</td>
</tr>
<tr>
<td>Disputes between private and public players are very common</td>
<td>Credible mechanisms for dispute resolution needs to be set in place</td>
</tr>
<tr>
<td>Project developers become inefficient once operation is established</td>
<td>Concessions should be made tradable by allowing the project developers to exit after delivering on the construction specifications.</td>
</tr>
</tbody>
</table>

Some other steps need to be taken to increase the efficiency of PPP projects and address the problems in current system. The strategy would be to just include all these clauses in the contracts signed initially. The steps to be taken are as follows:

- The tax regime applicable to dividends paid out by SPVs needs to be rationalized; currently dividends are being taxed twice, first at the level of project-specific SPVs and then at the holding company level in cases where a holding company is implementing multiple projects through SPVs.
- Large size PPP projects may be awarded through an SPV route, wherein a project SPV first acquires land, permissions for shifting of utilities and environmental as well as other statutory clearances and approvals necessary.
for undertaking the project. The SPV — along with the project — is then bid out through a transparent process

- Concessions should be made tradable by allowing the project developers to exit after delivering on the specifications, when the operations stabilized.

- To attract global investment funds for infrastructure, India's PPPs need to offer returns comparable to those in other markets

- Credible mechanisms for dispute resolution needs to be set in place

- Continued government role and support is required to ensure provision of infrastructure services to poor people.

- Project capital and operational costs should be capped. The party bearing these costs should be able to check that they are 'reasonable.'

- To avoid bias, crucial appointments such as those of the Independent Engineer, Independent Auditor and Project Oversight Board should be based upon transparent selection criteria. Selection should be made from a mutually acceptable shortlist and should not involve third parties.

- There should be a proper mechanism for renegotiation in between if required but should be avoided. And this should be mutual and rational. Hence main thing is that agreement should be clearly drafted like GMR says it was efficiently designed in case of Delhi airport

- A proper survey through a Government Approved Surveyor/ valuer should be conducted to find the exact area of airport land, hospitality area, demised premises, carved out area including the land available with the AAI. AAI should obtain clear title deeds in respect of total area handed over to private airport operators to avoid future dispute

- In case of PPPs, it is recommended that all pre bid conditions are declared upfront and monetized value of all concessions including assets transferred is arrived at before bids are invited. Any post bid concessions, which are not contemplated earlier, amount to undue favour to the concessionaire. Government should investigate all cases of such post bid actions and fix responsibility. It is necessary to review the various provisions of OMDA and verify to the extent provisions could not be adhered to.

- DPR should be properly made
6. Future Work:

India has witnessed high growth rate in last few years. However, recently it is facing downturn. India is still in its development phase and huge amount of investment is required in almost all sectors but due to financial constraints government alone cannot meet all the investment requirements. Here comes the Private player in picture.

PPP is the best way to develop India as it solves two main problem one being the finance and second it avoids inefficiency. There is much scope to work in new sectors like education, skill trainings, Renewable energy etc.

Also State comparisons needs to be done and it should be found why some states are progressing well and some are not when it comes to PPP

As part of the future work one can keep a track of the implementation of various policies and check whether it is able to achieve its goals.
7. References

1. International Conference on Meeting India’s Infrastructure Needs with Public Private Partnerships
2. The International Experience and Perspective February 5–6, 2007, Shangri-La Hotel, New Delhi, iv Conference Report
4. "DND flyway toll hike: Noida residents to file PIL " Indian Express , Noida, (Sun Nov 18 2012)
5. “India’s love affair with public-private partnerships faces a stern test”, The Economists, (Dec 15th 2012, Chennai)
6. “Public Private Partnership: A means or an end?”, The Economic Times, Dr.RamSingh, (May 7, 2009)
7. “Govt for independent regulators to promote PPP projects”, Indian tollways, an e- magazine, (29 Apr, 2013)
12. Report by CAG “Implementation of Public Private Partnership, Indira Gandhi International Airport, Delhi”
13. A case study “GMR’s Terminal 3 for Delhi Airport: A Successful Project Execution Model for Public-Private Partnership Initiatives?”
15. GMR’s Website
16. Case Study by Planning Commission - “Commercial use of land at Delhi and Mumbai Airports- An analysis of the questions of law and public policy”
   Structuring PPPs in Aviation Sector: Case of Delhi and Mumbai Airport Privatization by IIM Ahmadabad
   Accelerating PPP in India –by FICCI and Ernst & Young
Appendix A

Mentor Meeting minutes

Date: May 22, 2013

Person: Shri Alok Shekhar

Designation: Private Secretary, Minister of State, Ministry of external Affairs

Discussion

- Decided the structure of the paper
- I was asked to take four major projects from four different sectors
- One being DND flyover and the second one is Delhi Airport and rest two will be decided within few days
- Study the success and failure of the concerned projects
- What is the main aim behind PPP projects and conduct a study to see if that aim is met or not
- Further some data regarding PPP projects in India can be collected from experts

Action Items before Next Discussion

- Need to mail my mentor a proper structure of the paper first
- Research about four major PPP Projects in India
- Find out the reasons behind the success and failure of the projects
- Research about the problems concerned and how can we overcome them and Provide Recommendations or ways to improve
Date: June 7, 2013

Person: Shri Alok Shekhar

Designation: Private Secretary, Minister of State, Ministry of external Affairs

Discussion

- Discussed the rough questionnaire that is to be used in further field visits
- Issues with DND and recommendations
- Delhi airport case study briefly discussed and got an appointment fixed with the CFO of GMR
- Discussed the pros and cons of bidding criteria and toll based highway
- Discussed the policy initiatives taken by the government in the last decade to increase the efficiency of PPP projects in India. Projects have shown a lot of improvement. In order to ensure transparency in the process the Government has introduced model documents.
- Discussed two-stage competitive bidding for award of concession contracts in place, two-stage process in which private party need to submit Request for Qualification (RfQ) and Request for Proposal (RfP) documents either it's a small or large projects. In the first stage technical evaluation is done and say top 5 companies are selected and in the second stage they are asked to submit financial bids
- Thought of taking DND as a benchmark and with the help of Mr. Praveen choose one recent highway project and compare. Now we have come long way from projects like DND

Action Items before Next Discussion

- Need to complete all the field visits
- Analyze the success of the project by judging the performance on parameters like was the project timely completed, if cost overruns are there and compare it with government funded projects
- The main of the case studies is to see have change in policies made PPP really efficient, find out the issues and challenges, recommend changes and how we can handle implementation issue and improve efficacy
- After discussing with Mr. Praveen from planning commission have to decide on which highway project should I take
Meetings and Interviews

Date: June 8, 2013

Person: Ms. Anna Roy

Designation: Director, Department of Financial Services, Ministry of Finance, Govt. of India, New Delhi, and the Director of Corporation Bank representing the Central Government as Government Nominee Director

Discussion:

Meeting Ms. Anna Roy helped in this report as she gave the true picture of PPP in India. It was found that the Government has taken many policy initiatives in last decade to increase the efficiency of PPP projects in India. Projects have shown a lot of improvements as well. In order to ensure transparency in the process the government has introduced model documents. Like now there is two-stage competitive bidding for award of concession contracts in place, two stage process in which private party need to submit Request for Qualification (RfQ) and Request for Proposal (RfP) documents either it’s a small or large projects. In the first stage technical evaluation is done and top few companies are selected and in the second stage they are asked to submit financial bids. The most improvement point is selection criteria, there is be no opaqueness, it should be highly transparent. At the time of awarding contract itself each and every point should be covered and all uncertainty should be addressed. So the best recommendation is every PPP project should be awarded by the way of Fair competitive bidding only.

Earlier because every company has to come up with their own contract there was a lot of transaction cost involved but now there are standard contracts used. Model agreements are developed in metro, highway, port, airport etc. Final selection evaluation should be objective not subjective like in the case of Delhi and Mumbai International Airports like in that case they were asked to submit their plan of action and management and proposals if the concession period if 60 years and
given various situations but the outcome of this was far from satisfactory. After this it was realized that everything can go wrong if final evaluation is that much subjective. The process was not transparent and was not even accountable. Hence selection is most crucial, right partner needs to be selected.

Also as a private player you should not leave or get any approval after getting selected. Government should give everything upfront. By this uncertainty decreases as well Earlier Item rate contract was followed and was source of corruption. When it was changed there was lot of opposition but things changed and are highly transparent now. Now it’s more about output specification instead of input specification. The main problem that still exists is DPR (detailed project report) is poorly made. People bid really high than required. People prefer BOT (annuity), so one solution is we can have a regulatory on the rack to look after. And there are still some implementation issues. There is a need to convince big investors and promote PPP. The main important issues are in land acquisition, environment clearances, and statutory clearances but because of these we can’t blame PPP as a policy. So to see the success of the project we can judge the performance on parameters like was the project timely completed, if cost overruns are there and compare it with government funded projects

The main aim of the case studies is to see have change in policies made PPP really efficient, find out the issues and challenges, recommend changes and how we can handle implementation issue and improve efficacy

**Date:** June 10, 2013

**Person:** Mr. Praveen Mahto

**Designation:** Director, Infrastructure, Planning Commision

**Discussion:**

Mr. Praveen elaborated on the Model Concession agreements available for different sectors on the website of Planning Commission. It was advised to find out
the issues from case studies and information available about DND flyway and see has the new policies able to address the issues The key finding was that Hyderabad Metro is one of the most efficient example of PPP in India.

**Date:** June 25, 2013

**Person:** Mr. Sidharath Kapur

**Designation:** President and Chief Financial Officer - Airports, GMR

**Discussion:**

The main aim of the meeting was to find out the point of view of private partners on the current scenario of PPP and the policy framework.

When asked how supportive and helpful the Government is It was identified that government have been really supportive in terms of all the approvals, agreements, Financial aid etc

In a report titled “Implementation of Public Private Partnership, Indira Gandhi International Airport, Delhi” the Comptroller and Auditor General of India (CAG) has found faults in almost every step of implementation of the Public Private Partnership (PPP) model in the brown field privatization of New Delhi’s Indira Gandhi International Airport (IGIA).

Regarding the controversial report by CAG on Delhi airport project, it accuses the Ministry of Civil Aviation, headed by Mr. Patel, of violating laws, and providing post contractual benefits to DIAL, to the detriment of the government as well as the travelling public. But it was identified that there were no post contractual changes or renegotiations. Bidding was fair. It was found that the major issue with PPP in India is that it is treated more like a public project so to make it more efficient private players need autonomy. They want government to design proper contract
and all clauses and after that just leave it to private player and let them work accordingly. PPP should be kept away from imposition of bureaucratic hurdles. Private Players think that keeping PPP project out of purview of RTI act will result in increasing the efficiency as there is more pressure on concessionaire while working because of this clause they need their freedom to work as a private party. So According to Mr. Sidharath Kapur RTI should not apply.

When asked about the issue of levy and removal of ADF (Airport Development fees) frequently, it was found that it’s more like capital grant which helps in decreasing the charges on the permanent basis. It is advantageous to both customers as well as the concessionaire because private partner gets additional capital stream and customers will end up paying less in long term as ADF is for limited period normally three years.

Use of Model Agreements in airport sector like highways was thought of one solution before this interview but it was found that Model agreements cannot be used as each airport is very different project like Delhi airport is a brownfield project.

There should be a proper mechanism for renegotiation in between if required but should be avoided. And this should be mutual and rational. Hence main thing is that agreement should be clearly drafted like GMR says it was efficiently designed in case of Delhi airport.

When Asked if 60 year concession period is good enough to cover the costs, it was realized that yes it is fair. Also GMR is grateful to government for the support and is in favour of PPP as a policy.

SSA covers all the performance standard agreement which need to be strictly followed by the concessionaire, and these are strictly followed in case of Delhi airport. But one problem is there are no performance standards for other stakeholders, which need to be in place.
On cost overruns, GMR CFO said that as a private partner you quote revenue share and the regulator, AERA in this case decides the cost its not like EPC where you decide all the costs. But actual costs are almost always different from estimated one’s because of the uncertain increase in prices of inputs. Government over regulation instead of increasing efficiency end up decreasing it, in case of Delhi airport project GMR appointed KPMG and Engineer India as regulators to look into matters like is cost increase fair or not and if infrastructure in build in time or not.

Delhi Airport Terminal 3 was built in just 37 months because of Commonwealth Games held in Delhi in 2010 so it was examined if time pressure was a problem. It was found that yes because of time bounds GMR had to face a lot issues like many contractors were not ready to take the risk and it also led to cost over runs in some sense.

In contrast to CAG report, Mr. Sidharath Kapur says that there were no post bidding changes and passenger fees is lowest if compared to other airports all over the world. The airport has been adjudged as the second best in the world in the category of 25-40 million passengers per annum by Airports Council International. accusing the Ministry of giving DIAL land worth more than Rs. 24,000 Crore for a sum of Rs. 31 lakhs, and an annual payment of Rs. 100 only. In contrast to allegations put on GMR by CAG on The report alleges the virtual give-away of land to DIAL, it was said that here comes the role of economics. While bidding and submitting the revenue share all these are considered so had it been the case that land was costly simply the revenue share bid by GMR would have been less.
“The highest measure of democracy is neither the ‘extent of freedom’ nor the ‘extent of equality’ but rather the highest measure of participation.”
- A.D. Benoist

Rakshak Foundation creates awareness domestically and internationally about the rights and responsibilities of citizens towards the society and state. Rakshak engages in and supports social and scientific research on public policy and social issues.

Contact:
Email: secretary@rakshakfoundation.org
Website: www.rakshakfoundation.org

Disclaimer: This report is an outcome of a student project and the content of this report represents the views of its author. Neither the report nor any of its parts represent the views of Rakshak Foundation and/or any of its affiliates and officials in any capacity whatsoever. The figures and facts used in the report are only suggestive and cannot be used to initiate any legal proceedings against any person or organization. However, the author shall be extremely grateful to acknowledge any inaccuracies in the report brought to author’s notice.
Please email your suggestions or concerns to: hr@rakshakfoundation.org