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Public Private Partnership and Financial Implication to Government: A Case Study from Malaysia

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Abstract: The implementation of infrastructure projects through the Public Private Partnership (PPP) that involve investments from the private sector has greatly benefited the country. Apart from being an alternative to conventional public infrastructure projects, PPP is also said to be a more efficient method as the risk of project implementation is transferred to the private partner. Even with these advantages, it cannot escape criticism, especially the implementation of PPP projects which involve financial implications to the government. The main purpose of this study is to investigate the Malaysian government's experience in the implementation of PPP projects especially regarding its financial implication issue and how the Malaysian government addresses the issue. A total of 29 officers from several government agencies were interviewed. The interview transcripts were analyzed using ATLAS. Ti application. Apart from contributing a theory regarding PPP, the results of this study have provided new knowledge on PPP, especially Malaysia's experience in dealing with financial commitment issues arising from the implementation of PPP projects. Although the context of development in other countries may differ, this Malaysian experience can be used as an example for PPP practitioners in planning PPP projects elsewhere.

Keywords: *Public-private partnership; development program; government procurement; fiscal management*

1. Introduction and Background

Public Private Partnership (PPP) is a strategy used by the government to provide public services, especially public infrastructure by inviting private partners to invest in public infrastructure projects. It refers to the collaboration between government and private companies in designing, building, financing and operating public infrastructure for the benefit of the general public (Ismail & Abdul Razak, 2023; Musawa et al., 2017). The implementation of the PPP program in Malaysia rooted since the 1980s under the privatization policy (Mohamad et al., 2018). The policy aims, among others, to reduce government participation in the economy and to enhance greater private-sector involvement (Economic Planning Unit, 1991). The privatization program undertaken in Malaysia does not only involve the corporatization of government entities and transferring/selling of government assets but also includes the implementation of new government projects using the private sector's investment under the build-operate-transfer (BOT) and build-operate-own (BOO) scheme (Hensley & White, 1993).

Over the years, new ideas have emerged in development practice worldwide. Private Finance Initiative (PFI) policy was introduced in 1992 by the British Conservative government. This PFI policy was initiated because it offered an opportunity for the British government to invest in infrastructure "off-balance-sheet", that is, implementation of infrastructure through public spending or borrowing was replaced by paying a tariff for infrastructure use to the private sector (Spackman, 2002). The introduction of PFI was controversial and attracted criticism as some argue that the PFI contract is a 'marriage made in heaven' and used by the government to enrich certain businesses with lucrative terms (Hodge & Greve, 2005). Being critical to Conservative Party policy, The Labor Party government in 1997 introduced PPP policy, a friendlier term to denote partnership in the contract, as an alternative to the Conservative Party's controversial PFI policy (Wettenhall, 2008).

Many criticisms of privatization policy related to mismanagement and corruption (Reinsberg et al., 2020). Privatization was expected to promote competition and eliminate corruption. In practice, the opposite has often been true as beneficiaries have engaged in new types of corruption to maximize their gains instead. As the failures and abuses of privatization became apparent, PPPs have been promoted, ostensibly to mobilize private finance for the public purpose (Sundaram, 2023).

Corresponding to the development of PFI and PPP in the United Kingdom, Malaysia shares a similar story where PFI has been announced in the Ninth Malaysia Plan. PFI is an initiative to use private sector funding in public infrastructure. Although the usage of private sector financing has been practiced in toll road projects since the 1980s, the PFI initiative has enhanced the private financing alternative. As opposed to the user pay concept in the toll road project, the private partner in PFI is paid by the government on the usage of the facility constructed. This is in line with PFI practices in the United Kingdom where under PFI, private sectors are remunerated through payment based on service availability (Spackman, 2002).

There were various initiatives by various government departments regarding PFI. The Economic Planning Unit (EPU) considers the PFI program the same as the privatization program because it is similar to the build-lease-transfer (BLT) that has been implemented in Malaysia. For example, the government building in Putrajaya Administrative Center was built by a private partner and it was leased to the government (Suhaiza Ismail & Abdul Razak, 2023). The lease payment made by the government to a private partner in BLT is similar to the availability payment concept under PFI.

On the other hand, by the PFI initiative announced in the Ninth Malaysia Plan, Pembinaan PFI Sdn. Bhd. (PFI Sdn. Bhd.) was established by the Ministry of Finance (MOF) to implement PFI projects. Several projects were identified to be constructed through PFI and PFI Sdn. Bhd is assigned to raise project financing for those projects. It was reported that the financing was provided by Employee Provident Fund (EPF) and Retirement Fund Incorporated (Public Account Committee, 2015). Under this arrangement, all PFI-identified projects will be funded by PFI Sdn. Bhd.. PFI Sdn. Bhd. will then repay the financing. This arrangement makes PFI projects implemented under the Ninth Malaysia Plan significantly different from the term PFI that has been normally understood and practiced in other jurisdictions worldwide (Ismail & Yusof, 2010).

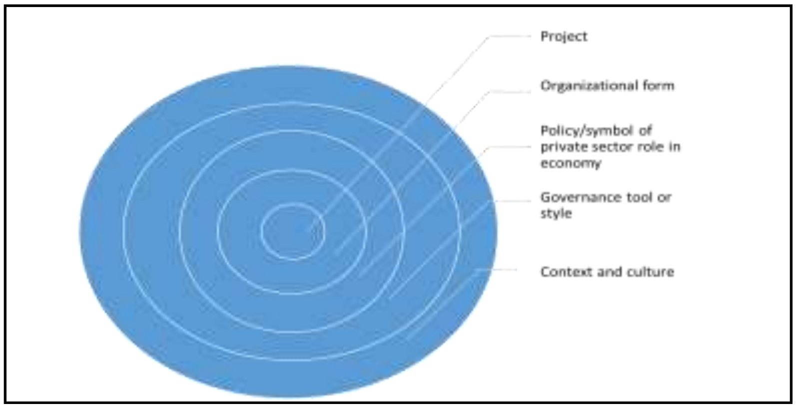
PFI Sdn. Bhd. was established by the MOF as a controlling tool for future payment commitments related to PFI projects. This corresponds to a general argument that claims PFI is used to circumvent the government budget. (Acerete et al., 2019; Benito et al., 2008; Reeves, 2015). There are beliefs that PFI will cause greater financial implications to the government if it is not properly managed because the government is committing to pay the private sector throughout the concession period (Engel et al., 2013).

The establishment of a PPP unit, namely, Unit Kerjasama Awam Swasta (UKAS) in 2009 marked a new direction in the privatization and PFI initiative in Malaysia. PFI projects that have been implemented through PFI Sdn. Bhd. was discontinued. UKAS is entrusted with the administration of the privatization program and PFI program that was originally administered by EPU and MOF separately. The term public-private partnership (PPP) was promoted to be the new term as an umbrella policy that combines both privatization and PFI under one program (Unit Kerjasama Awam Swasta, n.d.).

2. Literature Review

Hodge and Greve (2013) Have discussed a broader conceptual phenomenon of the term PPP which may be referred to as (1) a specific activity or project, (2) an organizational form or management tool, (3) a statement, or policy regarding the role of the government in economic activity, (4) a symbol or governance tool or (5) a historical context and culture sets of assignment (Figure 1).

Figure 1: Dimensions of PPP Phenomenon



Source: Hodge and Greve (2013)

Hodge and Greve (2013) conclude that the most usage of the term is always regarding what they call a long-term infrastructure contract' (LTIC) partnership between public and private partners. Another contributor to PPP research, Grimsey and Lewis (2004) also discussed the term PPP which has been used in various countries. They have defined PPP as a risk-sharing relationship based on a shared aspiration between the public sector and one or more partners from the private and/or voluntary sectors to deliver a publicly agreed outcome and/or public service'. Looking at this definition, it has been construed from three dimensions identified by Hodge and Greve (2013), that is, PPP as a specific project, a management tool, and a policy statement of the government as to their involvement in the economy.

Yescombe (2007) Took the position to discuss PPP from a similar dimension where PPP is regarded as 'project based' and 'contract based' with its definition comprised of 4 key elements, (1) a long-term contract; (2) involves activity of design, construction, financing, and operation of public infrastructure (facility) by private-sector party; (3) with payments over the long-term contract made either by the government or by the public as users of the public facility; and (4) with the facility remaining in public-sector ownership, or reverting to public-sector ownership at the end of the contract. This LTIC-type definition of PPP concurs with the observation made by Hodge and Greve (2013) that most discussion about PPP is related to infrastructure project dimensions.

Martin (2016) Argues that there is much confusion about what PPP is and what is not PPP when he discusses that on many occasions, being in public seminars and/or academic conferences, collaboration between public and private partners and any contracting-out procurement by public organizations has been attributed to PPP. He contended that PPP should be part of a procurement contract that involves construction/reconstruction of infrastructure/ public facility and not any other else. PPP should not cover other arrangements such as collaboration/joint venture and/or long-term services.

In a different perspective to the conclusion made by Martin (2016), Saussier and de Brux (2018) Explained PPP where they categorized the implementation of infrastructure projects into three types, (1) public procurement where the government assigns construction or service needs to a private entity as a contractor in return for a payment in the immediate term; (2) concessions contract which is based on the assignment of a mission comprising financial investment, construction of the project together with its operation and maintenance; and (3) Availability-based PPP that allow a government to assign a contractor with a comprehensive project as part of a long-term contract, against payment or remuneration paid by the government and spread over time. She also explained that apart from public procurement, the other two categories are always regarded as PPP where a concession contract is a "user pay PPP" meanwhile an availability-based contract is a "government-pay PPP". Either "user-pay PPP" or "government-pay PPP", many kinds of literature have also discussed the use of PPP as a way to avoid budget constraints. (Cepparulo et al., 2024)

Theories Underpinning PPP

It has been discussed in literature that not all collaboration between the public sector and private sector can be regarded as PPP in its true technical meaning although any form of collaboration between government and private sector may be called public-private partnership. PPP has been established as a technical term and can only be attributed to certain features as follows:

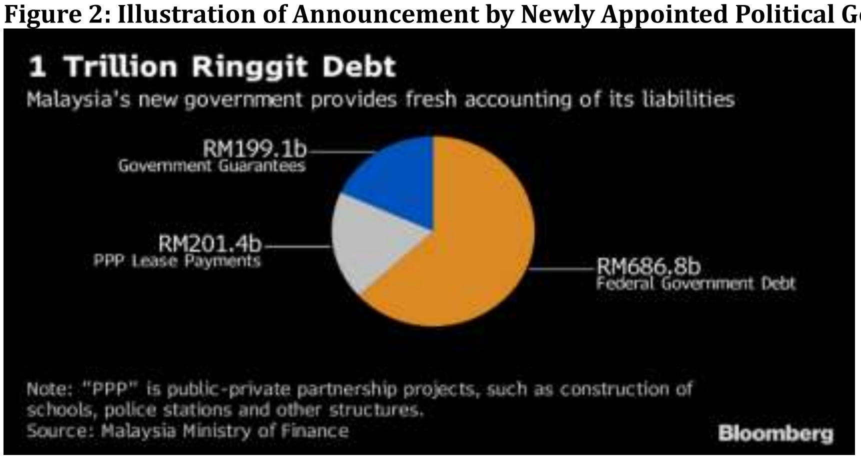
- PPP is part of a public infrastructure procurement program that uses private sector investment;
- PPP involves long-term infrastructure contracts between public and private partners, and it ranges from the designing, funding, and building of the facility to the operation and maintenance of the facility; and
- two major types of PPP, that are, user-pay PPP and government-pay PPP.

Issue And Challenges

Government strategy to use PPP in providing public service and public infrastructure seems to be a good strategy. However, although PPP used private sector investment, the implementation of the PPP strategy still has financial implications for the government. It is because in the availability type PPP, although it does not need government funds for the construction of the project, it requires government payment commitment in the form of lease rental payment throughout the contract period. For example, the government has explained in the parliament that they chose to construct six Universiti Teknologi Mara (UiTM) campuses through PPP to overcome a lack of development funds. By doing this, the government must pay RM375 million in rent annually for 23 years, based on concession agreements that have been signed (Zahiid, 2014).

It was in 2018 when the newly elected Malaysian government reported that the national commitment to its debt was bigger than what had been reported by the previous government. The total amount is to be more than RM1 trillion. In explaining the number, the government has included in the calculation of the national debt with government guarantee loan and PPP payment commitment illustrated in Figure 2 (Shukry & Jamrisko, 2018).

Figure 2: Illustration of Announcement by Newly Appointed Political Government



Although it has been clarified that the inclusion of government guarantee loan and PPP lease payments commitment is not an appropriate mechanism to assess the actual government's debt as compared to the regulatory limitation (55% of GDP), it is still an eye-opening discovery that PPP lease payments commitment has become a serious issue that the government needs to address. According to the data reported when Budget 2021 was tabled in Parliament, the amount of PPP payment commitment represents 12% of the GDP as shown in Table 1.

Table 1: Government Debt and Liabilities Exposures

Component	RM Billion		Share of GDP (%)	
	2019	2020	2019	2020
Federal Government Debt	793.0	874.3	52.5	60.7*
Committed Guarantees	194.0	209.3	12.8	14.6
Other liabilities (PPP, PFI, PBLT)	182.2	173.3	12.1	12.0
Total	**1,169.2**	**1,256.9**	**77.4**	**87.3**

** Debt ceiling amount of 55% of GDP has been raised under a new Act enacted in 2020, that is, Temporary Measures for Government Financing (Coronavirus Disease 2019 (COVID-19)) 2020 Act.*
Source: Ministry of Finance, 2020

This disclosure inspires the researcher to undertake this study with the general objective of investigating the government's experience in the implementation of PPP projects especially on the procedure that may have been overlooked regarding the financial commitment of PPP projects.

3. Research Methodology

The main objective of the study is to investigate the experience of public officials on PPP projects and their financial matters. The study utilizes a qualitative research design with face-to-face semi-structured interviews. The population of the study construed government officers in departments which directly involved in PPP mainly UKAS, several divisions in MOF and specific divisions in Ministries which directly involved in the implementation of PPP projects.

A total of 29 individuals were interviewed and became a sample of the study. They represent three clusters for analytical purposes that are UKAS cluster, the MOF/EPU cluster and the cluster from implementing agencies. The details of the individual interviewed in terms of demographics and the date the individual was interviewed are presented in Table 2.

Table 2: Participants Demographic

Coding	Cluster	Designation	Service Experience (Years)
P1	UKAS	Principal Assistant Director	17
P2	UKAS	Deputy Director General	28
P3	UKAS	Principal Assistant Director	19
P4	UKAS	Senior Assistant Director	8
P5	UKAS	Director	20
P6	UKAS	Principal Assistant Director	18
P7	UKAS	Director	22
P8	UKAS	Director	20
P9	UKAS	Principal Assistant Director	17
P10	UKAS	Senior Director	23
P11	UKAS	Senior Assistant Director	12
P12	UKAS	Senior Assistant Director	14
P13	UKAS	Principal Assistant Director	18
P14	Implementing Agency	Assistant Secretary	2
P15	Implementing Agency	Mechanical Engineer	19
P16	Implementing Agency	Senior Assistant Secretary	8
P17	MOF	Principal Assistant Secretary	19
P18	MOF	Principal Assistant Secretary	18
P19	MOF	Principal Assistant Secretary	19
P20	MOF	Senior Assistant Secretary	14

Coding	Cluster	Designation	Service Experience (Years)
P21	MOF	Senior Assistant Secretary	13
P22	MOF	Head of Section	22
P23	MOF	Principal Assistant Secretary	16
P24	MOF	Head of Section	21
P25	MOF	Head of Section	21
P26	Implementing Agency	Principal Assistant Secretary	19
P27	EPU	Principal Assistant Secretary	15
P28	Implementing Agency	Deputy Undersecretary	22
P29	Implementing Agency	Principal Assistant Secretary	18

Although it is visually seen that the distribution of samples by cluster is less balanced, the fact is that there are samples representing the UKAS and MOF clusters that have also served in the implementing agencies. 5 participants (P6, P8, P13, P17 and P23) representing UKAS and MOF have served in other ministries and have been directly involved in the implementation of infrastructure projects. It is also visually shown that only 1 participant represents EPU. However, 5 of the participants (P1, P7, P9, P23 and P25) representing UKAS and MOF have served in EPU. Therefore, the visual distribution should not be considered disproportionate because the samples' experience in other clusters is not uncommon.

4. Findings and Discussion

The findings of the study are based on two research questions. The research questions and the findings are elaborated in the following subsection.

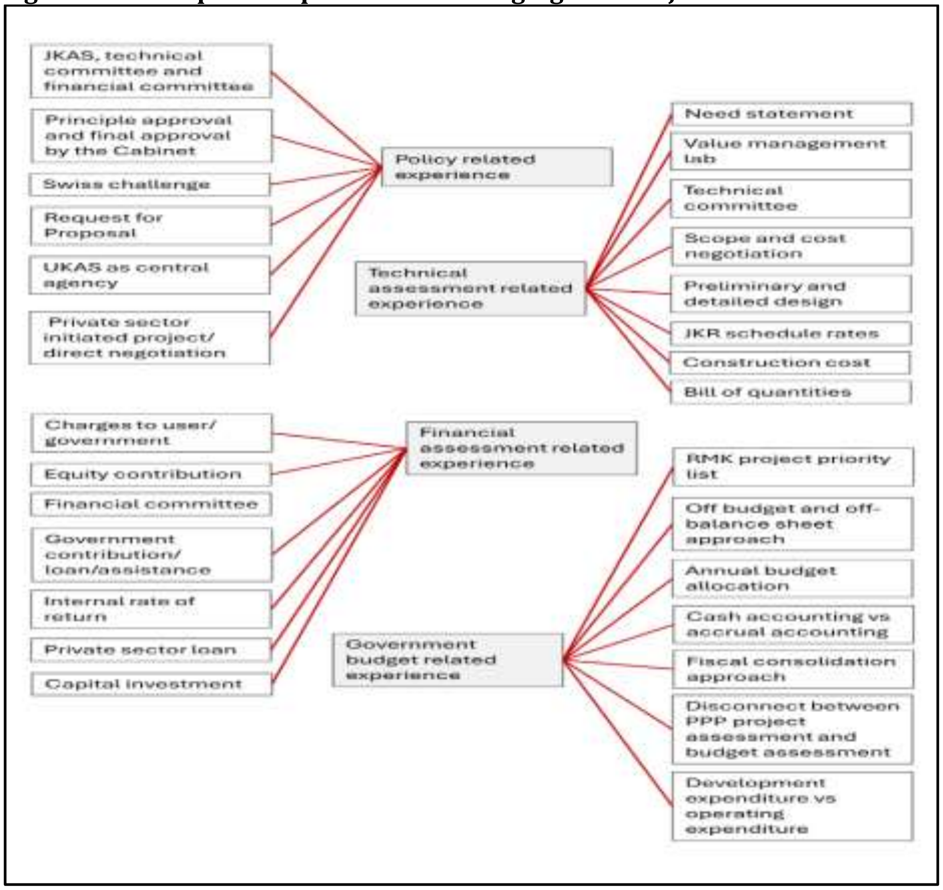
First Research Question

The first research question of the study is "What are the experiences of public sector officials in managing PPP projects, especially future payment commitment about PPP projects?". Although this research question emphasizes the experience in managing future financial commitment regarding PPP, the responses from the participants do not necessarily answer this research question directly. Not all participants are involved with the future financial management of PPP. The financial management of PPP also depends on the perspectives of participants which are diverse from each other. For example, most of the responses from UKAS cluster participants consider that financial management is related to private company's investment and how to ensure that the private company is getting fair and not extravagance returns. Meanwhile, the response from the MOF Cluster assumes that financial management is related to payments to be made by the government to the concessionaires. In addition, the perspective of the technical officers is that the financial management is related to the price offered for each component of the project and its management is hovering on the means and method to obtain more value for money to the government.

Each participant's response and explanation were labeled and encoded to specific codes and code categories. Using the ATLAS. Ti application, codes and code categories are generated to address the participants' experience in managing PPP projects and financial matters related to PPP projects. The codes and code categories are shown in Figure 3.

Based on Figure 3, there are 28 codes related to the existing experience of participants that have been classified into 4 code categories, namely policy-related experience, technical assessment-related experience, financial assessment-related experience and government budget-related experience. The code categories can be regarded as emerging themes in addressing the first research question. The detailed explanations of these themes are elaborated in the subsequent subsection.

Figure 3: Participants Experience in Managing PPP Projects



Theme 1: Policy-Related Experience

The implementation procedure for PPP projects has been set by UKAS, the government department responsible for the implementation of PPP projects. This procedure includes (1) the role of UKAS as the single central agency that processes all PPP project proposals, (2) the evaluation of project proposals carried out by several levels of committees and (3) the need to obtain approval from the Cabinet. This procedure is a procedure set on a policy basis by the Government. In explaining their experience in processing PPP projects, P8 and P4 stated:

"...as a central agency, the role of UKAS is to coordinate and negotiate. We have the secretariat role. We are not even the signatories, right? to all this concession agreement. We are not the signatories... at the end, it is that implementing agency which will be entrusted to carry forward with that project."

"...in terms of my experience, I handle project proposals to be discussed at the JPP, JKAS, and JTAS level and prepare Cabinet paper to get cabinet approval. That is how we implement a project. We have a strong governance. I would like to say strong. Through these committees, we solve issues. Make recommendations."

The establishment of UKAS in 2009 is also linked to the government's intention and policy to boost private investment. P9 is among officers previously posted in EPU manages privatization projects and has been transferred to the newly established UKAS. P9 shared her experience:

"The time when I joined EPU is in two thousand and seven. At that time as I recall, we had not implemented PFI. We are still researching the model, the cash flow, and the viability as we are going to implement a project on a PFI model. So, this PFI model is one of the new models under PPP. So, at that time, the privatization section (in EPU) mostly managed projects that have already been implemented on a privatization basis, right? And PFI was a subset or new model at the time. We have no project that involves payment by government, long-term commitment... It is only after two thousand nine, we (the government) decided to implement projects through PFI. And UKAS was established…"

PPP project assessment and planning procedures set by UKAS are also influenced by the previous experience in evaluating privatization project proposals. The assessment of proposed privatization projects was previously made through the Privatization Committee, a committee chaired by the central agency responsible for the approval of development projects i.e., EPU. The privatization committee consists of other central agencies such as MOF, the Attorney General's Chambers, the Department of the Director General of Lands and Mines, and the Ministries and technical departments that regulate the relevant industries. The privatization committee acts as a main committee assisted by two sub-committees, namely the technical sub-committee and the financial sub-committee.

After UKAS was established, the privatization committee was renamed the Public-Private Partnership Committee (Jawatankuasa Kerjasama Awam Swasta - JKAS). Given the large number of project proposals at the beginning of its establishment, JKAS was assisted by another committee called the project steering committee (Jawatankjuasa Pemandu Projek – JPP) which coordinates technical inputs and financial inputs before a project proposal is discussed at JKAS. There was a time when all PPP projects were discussed at another level of committee chaired by the Chief Secretary to the Government named the PPP Highest Committee (Jawatankuasa Tertinggi Awam Swasta - JTAS). Although it has been very active before, JTAS only convenes as needed and on a case-by-case basis in current practice. P10 explained the role of JKAS and JTAS as follows:

"So now, now we have JTAS again. Okay. But the terms of reference. It's not like the JTAS that you remembered. Okay. The JTAS that you remember was elevated from the JKAS meeting, and then after that KSN (Ketua Setiausaha Negara – Chief Secretary to the government) chairs and the KSU (Ketua Setuausaha – permanent secretary at the Ministries) were attending, then they make the decision. Then it is elevated to the cabinet for approval. Okay, so now the JTAS, uh, it was re-established …. But I think is more of a problem solving, not, it is not as frequent as JKAS. Uh, so this is as and when necessary,"

Theme 2: Technical Assessment-Related Experience

Details of the technical assessment process were mostly obtained from participants who focused only on technical assessments. Generally, the technical aspect that is given attention in PPP projects is the detailed project requirements, especially the design desired by the Ministry as the project owner. This design will be discussed in a value management workshop, or they like to call it a value management lab, to detail each component of the project. Once the details of the scope and components of the project are determined, it is evaluated in terms of the construction cost of each component of the project. This scope and cost determination process is done many times, and it is finalized in value management lab sessions coordinated by technical experts from various disciplines including civil engineering, mechanical engineering, electrical engineering, architects, and quantity surveyors. All these experts are government employees serving in the Public Works Department. P1 commented:

"When we look at any proposal, the first person that we will turn to is our technical agency. They advise us in terms of technicalities. It is the technical reason that is going to determine the cost. Do you want a four-hundred-bed hospital? How do you want to do it? Do you want an A grade? … Everything is determined by the technical agency. From that we can determine the cost and from the cost, he will further evaluate, but the most important thing is to determine the scope and to determine the cost, we need to get a view from the technical agency."

In explaining the process of technical assessment, P12 explained:

"…when we have a value management lab, we're going to break it down by a few groups and that's where the customers will see, along with technical agencies, technical advisors …, we will sit down together and we will review the requirements that they have... the customer's requirement, the previous statement of need to match with the company's proposal. So, to match the two, the government and the company will come up with the optimal scope and cost to make sure that there is no waste there. …we must sit down and design back-to-back... arrange the value management lab to make sure that we get the optimal cost. Value for money."

"I would like to inform you that it is important to prepare documents before going to the value management lab. The documents, in terms of the adequacy of the documents, play a vital role. Normally, we are going to ask for the design drawing up to thirty percent."

Theme 3: Financial Assessment-Related Experience
Details of the financial assessment process were obtained from the interview participants who carried out the financial assessment. Generally, the financial aspect that is given attention starts with the cost of project implementation in terms of capital expenditure (capex). From this capex, a simulation of the projected cash flow will be made assuming the company's equity contribution of 20% and project financing of 80%, project borrowing cost of 8% and financing tenure of 20 years. Through these cash flow projections, the Government can determine the reasonable payment to the concessionaire so that the concessionaire gets a fair payment which is equivalent to equity internal rate of return (equity IRR) at around 10%. P21, a participant representing the MOF who has experience attending meetings in UKAS explained:

"Okay. If I can still recall back... one of the financial assessment guidelines that we (MOF) issued at the time was in terms of specifically assessing financial viability aspects of the PPP project which include capping the return to the private partner, we also determining another financial requirement, for example, the WACC (weighted average cost of capital) as well as the determination of the debt-equity ratio. Reasonable return to private partner is important to achieve the project viability with correct cash flow projection to ensure that the project is sustainable commercially."

This financial assessment process was influenced by the previous financial assessment process in the privatization project. For example, in a toll-highway privatization project that was implemented through build-operate-transfer under a user-pay concept, the cost to construct the highway and other related costs during the construction is termed capital expenditure (CAPEX). From this capex, a simulation of the projected cash flow will be made assuming a certain number of traffic using the highway, the company's equity contribution, amount of project financing, financing cost, financing tenure, maintenance as well as operating cost throughout certain concession periods. Through these cash flow projections, the government can determine the reasonable toll rate for the highway and reasonable concession period so that the concessionaire gets a fair return.

Theme 4: Government Budget Related Experience
When PPP projects were actively implemented after the establishment of UKAS in 2009, there was a loophole in terms of procedures regarding the evaluation of PPP projects, especially regarding the provision of future financial allocations. As told by the participants, the evaluation of PPP projects covers two main aspects, namely the technical aspect and the financial aspect. The financial aspect involves matters relating to the amount of private investment, equity amount, project loan amount, borrowing cost, concession period and availability payment rate. In both aspects, this technical examination and financial assessment do not consider the need to apply for financial allocation. The financial allocation for the PPP project is as explained by P4:

"…in the Malaysian context, the implementation of Malaysia's development project is all about budgeting and allocation, right? The Ministry has to apply allocation from development expenditure. It is all about budget, budget, and budget. But for the development of PPP projects, it is the same. However, for the PPP model, right? It is easy because we can do the project first and we do not have to get the budget. It is private partner money. But we made a financial commitment throughout the concession period."

The loophole happens because of two factors, namely (1) the evaluation process of the PPP project is influenced by the evaluation process of the privatization project. The evaluation of privatization projects does not involve future government payments as they are mostly user-pay. (2) The allocation application mechanism adopted by the government does not involve an application to provide future allocation. Application for allocation by government agencies to the Ministry of Finance involves allocation for operating expenses and allocation for development expenses. The allocation for operating expenses is based on the needs of the department's operation in the current year while the allocation of development expenses is based on the implementation of development projects that have been approved in the five-year Malaysia Plan. In this regard, there is a gap at the beginning of the implementation of the PPP project about the allocation application. Among the general opinion at that time is that the financial application for PPP payment will only be made after the relevant ministry has started making availability payment and this payment is of an operating in nature i.e., the application will be made for operating expenses. It was explained by P24:

“We allocate the expenditure for the PPP payment. We used to put under the OE (operating expenditure) for PPP, right? It was just that we were going to pay some sort of rent. However, the thing that we pay for is a package for a building, (such as) UITM. That was supposed to be the thing that we spent under DE (development expenditure) but we were doing it on PPP... Then, we start to look at the bottom of the OE. The amount is enormous.”

The issue related to PPP payments began to arise after the government, in particular the MOF realized that the increase in government budget applications by Ministries and agencies was a consequence of the impact of financial commitments for completed PPP projects. At that time, the MOF initiated a fiscal consolidation process to reassess the government's payment commitments either in the form of operating expenses, development expenses or other payments including loan repayments, debt service payments, commitments related to PPP projects and commitments related to projects borrowed by other entities with government guarantees. It was explained by P20:

“…starting from the year two thousand and seventeen, the government has begun to make a more comprehensive report on government liability. Before this, PPP projects, government guarantees as well as government’s company debt were not reported in any reporting but only used for internal reference. Starting in two thousand and seventeen, uh, two thousand and eighteen, we have done more comprehensive reporting to include all of these elements…. So, the issue that arises over the PPP is a huge commitment from the PPP project itself… resulting in the inability of the government to finance payments arising from PPP, using operating expenditure…. (payment for) PPP need to be reclassified as development expenditure.”

After the fiscal consolidation process was implemented, a resolution was made that all payments related to PPP be made through the development expenditure even though it was previously seen as an operating in nature to be paid through the operating expenditure. Development expenditure comes from Development Funds. According to P18, this resolution is by the Development Funds Act, 1966 where Schedule 1 of the Act has listed the purpose to which the Federal Development Funds may be applied. The list includes the acquisition of capital assets as well as the repair and maintenance of public property. According to this list, maintenance payments for PPP projects may also be made through the allocation of the Development Funds.

The determination of PPP payments using the allocation from the Development Fund is a strategic and critical decision as the government needs to ensure a controlled fiscal position where the government's borrowings to cover the shortfall in government income each year can only be made for development expenses. The government shall not borrow for operating expenses. This was explained by P18:

“If you look at the Federal Constitution, Article Nine states that all government spending for operating expenses, Supply Bill, must be covered by the government revenue. So, if there is (enough) revenue, then you can finance the OE (operating expenditure). If there is no (enough) revenue, there is no OE. We cannot do it. That means the government has to make sure the revenue is always sufficient to fund the Supply Bill's expenses.”

P20 further explained:

“… the operating expenditure is funded using revenue…. Federal Constitution and the Financial Procedure Act… does not allow the government to finance the operating expenses through borrowing. It means that OE can only be funded using the revenue. So as the amount of OE grows because it includes PPP… as well as other operating expenses such as emoluments, pensions, subsidies and so on, the government has decided to transfer this PPP commitment to development expenditure...”

Financial commitments related to PPP have also been included in the list of development allocation requirements for each Ministry involved. In this regard, each Ministry should consider the need for PPP payment in applying for development allocation. This affects the Ministry not only in applying for the annual allocation from the MOF but also in applying for new projects in the Malaysia plan every five years. It was explained by P25:

"…an example, the implementation of the university through PPP, (including) the development of the Pagoh higher education hub... residential college... many residential colleges. It does not fit in with the development planning. The development planning by the Ministry of Higher Education itself. When it happens like this, in a very short time with so many PPP projects, until now the allocation for the development expenditure to the Ministry of Higher Education is just to pay for this PPP. (As a result) We cannot submit or create new development projects... The allocation requires a lot to be spent on PPP projects that were not planned and are not in line with the initial plan in the (five-year) Malaysia Plan."

Second Research Question

The second research question of the study is "What kind of new procedure needs to be established to control government financial commitment to PPP projects?" The second research question is intended for the researcher to conclude on the responses given by the participants and to propose a well-directed budgetary management framework for the implementation of PPP projects.

From the responses received from the interview participants, it can be noted that each participant had a different perspective on the control of financial implications regarding PPP projects. For participants involved in the financial evaluation, the control of financial implications is more focused on the method to ensure that the concessionaire does not profit extra-ordinarily from the implementation of the PPP project. The method they use is to evaluate the PPP projected cash flow and the appropriate charge rate to the user or the appropriate availability payment set out in the concession agreement. The government's ability to pay for the availability payments does not fall within the scope of the evaluation by the financial evaluation committee.

For participants involved in the technical evaluation, the control of financial implications is about how to obtain the construction design at the lowest and optimal cost. Each component of the project is refined through a value management lab and each cost of the components is checked to suit the market price. The scope of this assessment also does not consider the government's ability to meet the payment requirements involved.

The existing procedures inherited from the government's experience in implementing privatization projects before the UKAS era became one of the factors that led to the existing loophole in the need to obtain financial allocations in advance. The previous privatization project evaluation procedure was suitable for previous privatization projects as the privatization projects did not involve payment from the government, but they were mostly user-pay projects. When PFI projects, which involve payment from the government in the form of availability payments, are processed through the privatization project procedure, the ability of the government regarding the payment component is not considered in the evaluation process.

Another reason why there is a loophole is that there is confusion over the allocation to be applied for PFI projects when it was first implemented after 2009. The common opinion at that time is that the allocation will only be applied in the future after three or four years when the project is completed by the concessionaire. The allocation is believed to be under operating expenditure because all rental payments are made under operating expenditure. So, with that belief, the need for development allocation does not arise.

The issue related to the financial implications of PPP began to arise after the MOF realized the high number of operating expenditure applications from Ministries that have PPP projects completed by the concessionaires. Since this PPP payment commitment is a contractual obligation, the MOF has no option but to provide the allocation. This event led to a fiscal consolidation process implemented by the MOF.

The fiscal consolidated approach that was implemented by the MOF has led to a new approach and it affects the implementation procedures of PPP projects. These approaches include:

- to ensure that all PPP project payments are made through development expenditure;
- all PPP-related payment commitments are listed in the development commitment for each Ministry each year in the annual budget; and
- the commitment to PPP projects is monitored every fiscal year through the annual fiscal outlook report.

5. Conclusion

In a nutshell, the response from PPP practitioners, especially government officials, regarding PPP financial commitment is hovering around single window proposal, that is, the need to have a single source of approval for all government development projects either directly funded by the government or development project that is implemented through PPP. This is because most participants are of the view that procedures processed by different central agencies have resulted in the widespread implementation of PPP projects without regard to the government's financial capabilities.

The common opinion at this time is for EPU (now officially known as the Ministry of Economy) to review all development projects in the five-year Malaysia plan and determine all the projects to be implemented either through the development allocation or the projects to be implemented through PPP. Nevertheless, it is noted that this matter is ultimately up to the Ministries to determine their projects and the method of implementation of their projects considering the Ministry's existing commitments. This is because the EPU usually sets the ceiling of development allocation to every ministry, and it is the Ministry that will formulate the project implementation strategy based on the ceiling. After all, the commitments for PPP projects have been listed in the list of the Ministry's development expenditure requirements in the annual budget.

This study suggests a theory that, at least from a Malaysian experience perspective, a PPP project is a development project and should be funded from the development expenditure of the country. This Malaysian experience has demonstrated one of the forms of a well-directed management framework to address the issue of Government payment commitments about PPP projects. It can be replicated by any other government in addressing the issue of future commitments related to PPP. It may not suit every country as the way they implement development projects and PPP projects may vary. However, the Malaysian experience is one of the case studies that other countries may learn if they have the same or similar problems.

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