

The views are those of the author(s) and do not necessarily reflect the view or the policy of the World Bank or any other affiliated organization.

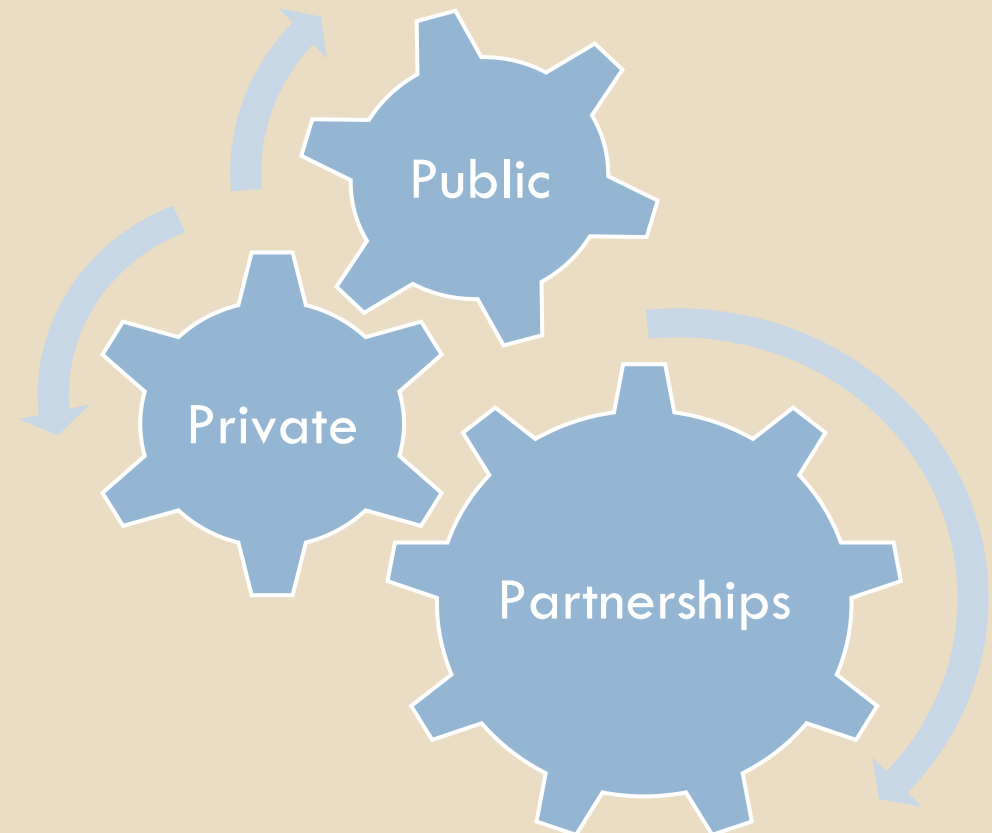
The views expressed in this presentation are the views of the author and do not necessarily reflect the views or policies of the Asian Development Bank Institute (ADBI), the Asian Development Bank (ADB), its Board of Directors, or the governments they represent. ADBI does not guarantee the accuracy of the data included in this paper and accepts no responsibility for any consequences of their use. Terminology used may not necessarily be consistent with ADB official terms.

INSTITUTIONAL FRAMEWORK FOR PUBLIC-PRIVATE PARTNERSHIPS IN INFRASTRUCTURE

JUNGLIM HAHM, PSD
SPECIALIST, WORLD BANK

PPPI Workshop, Qingdao, People's Republic of China
(PRC), June 23-25, 2009

Introduction



Best Practice in PPP

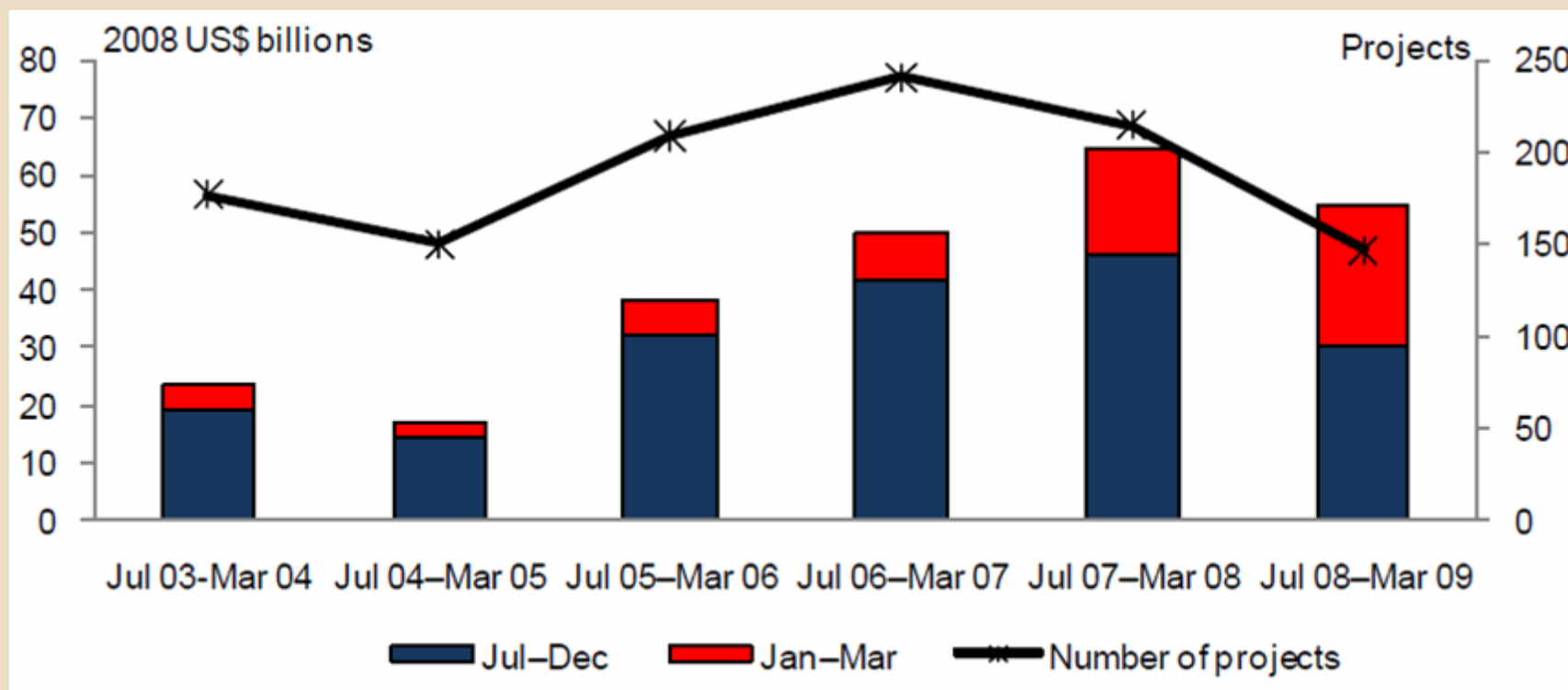
- Legislation has clear and transparent procedure
- Institutions with clear mandate and enough capacity
- Government with vision and leadership
- Projects well selected, analyzed up-front
- Quality of service can be readily defined and measured
- Adequate risk transfer to the private sector
- Competition and capacity in the market
- Monitoring and evaluation procedure in place
- Incentive based regulation

Experience is more likely to be...

- Legislation seems to create more confusion than to give clear instruction on how to do PPP both in public and private sector
- There are willing and capable government entities but more coordination is required.
- It's opaque what government aims to achieve through PPP: Fiscal space? Efficiency?
- Selecting and designing projects are not free of political and social pressure
- Analyzing projects often has too much of optimistic bias
- Projects are not bankable
- Not enough number of equity investors, no long term lending market, less enthusiastic international investors
- Insufficient consideration is given to the operating stage

Challenging Environment

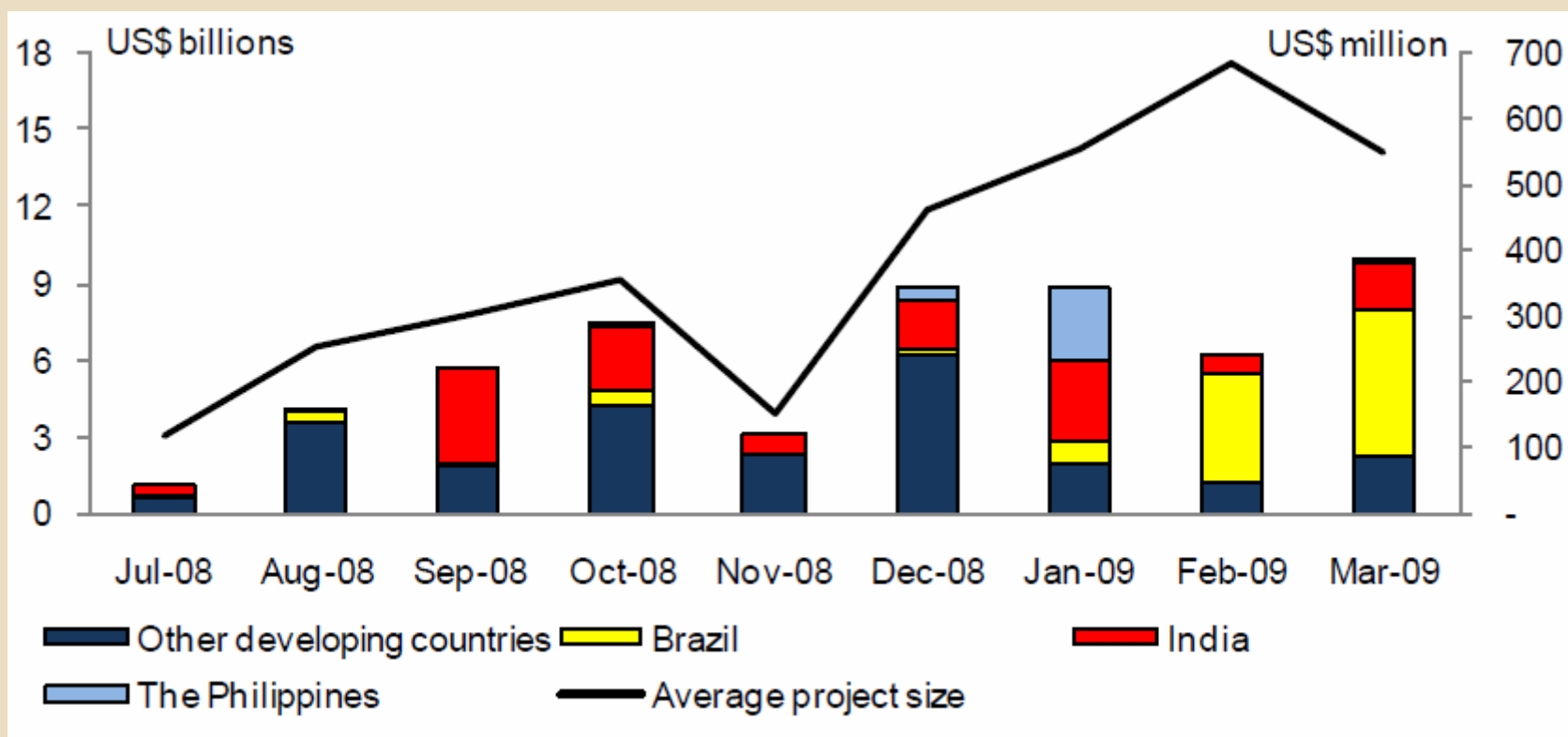
New Private Infrastructure Project and Associated Investment Commitment Reaching Closure in Developing Countries, Jul 2003-Mar 2009



Source: WB and PPIAF, PPI Project and Impact of Financial Crisis on PPI Database

Challenging Environment

Infrastructure Project with Private Participation Reaching Closure in Main Recipients and Rest of Developing Countries, Jul 2008-Mar 2009



Source: WB and PPIAF, PPI Project and Impact of Financial Crisis on PPI Database

Weak Institutions result in...

Portugal until 2003*

- Portugal pursued its first PPPs in the mid-1990s to more efficiently build new infrastructure
- The government PPP unit suffered from lack of experience with PPP projects and inexperienced staff
- As a result, Portugal's early PPPs were subject to constant delays and cost overruns— by 2003, the country's PPP-related liabilities amounted to 10% of GDP
- Weak public sector capacity was evident in insufficient risk transfer to the private sector and delays in giving government approvals on essential land and environmental aspects

Korea 1994 - 1999

- 45 projects were bid out (central gov'ts), only 10 signed CA.
- Weak quality control in bidding documents, and contracts especially on local gov't level
- No international investor participation
- Private sector frustrated with no clear communication channel
- Little progress in financing closure

* Vikram, 2006

Building Institutions for PPP

Priority to strengthening the institutional framework

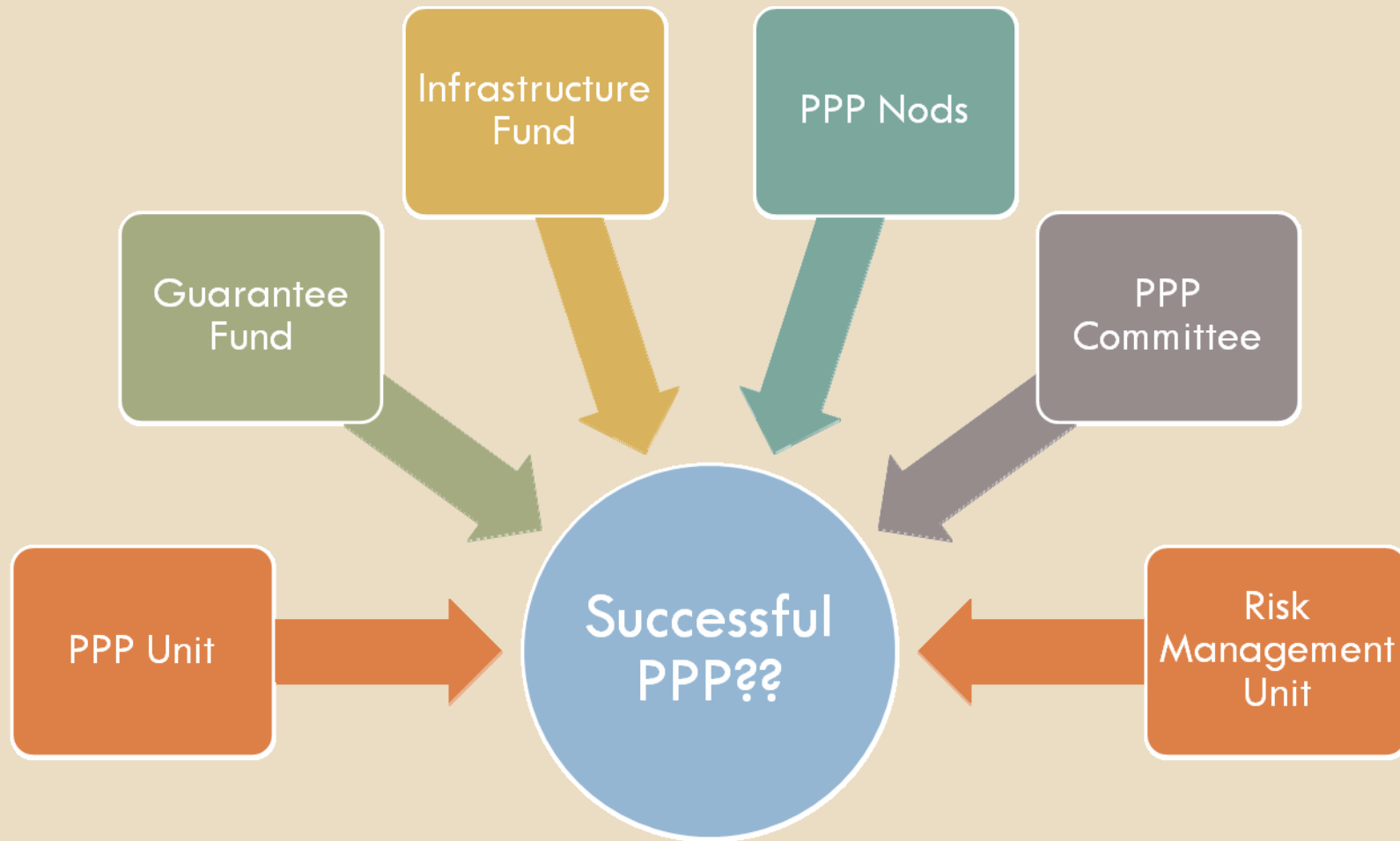
Legal framework, Government's Planning, and Managerial Capacities

The **legal framework** for handling PPPs needs to be strengthened so that it comprehensively covers all aspects of the PPP process.

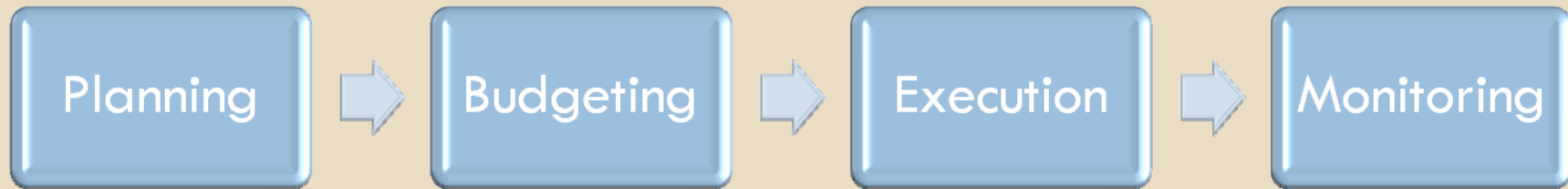
The **decision to opt for a PPP** instead of a direct public investment has to be **well informed, evaluating whether a given project is worthwhile economically & financially.**

Governments also need to strengthen their **capacities to manage PPPs** (e.g., by setting up PPP units)

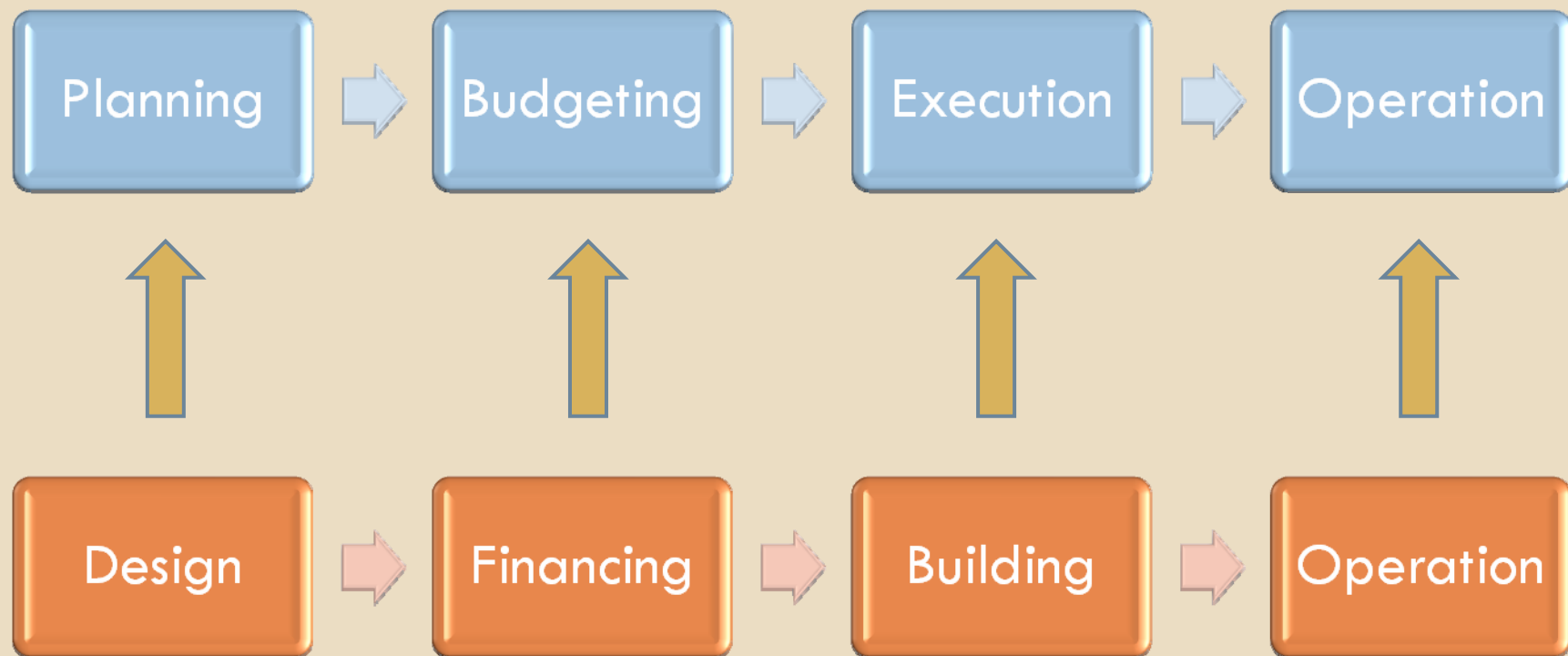
Remedy for successful PPP?



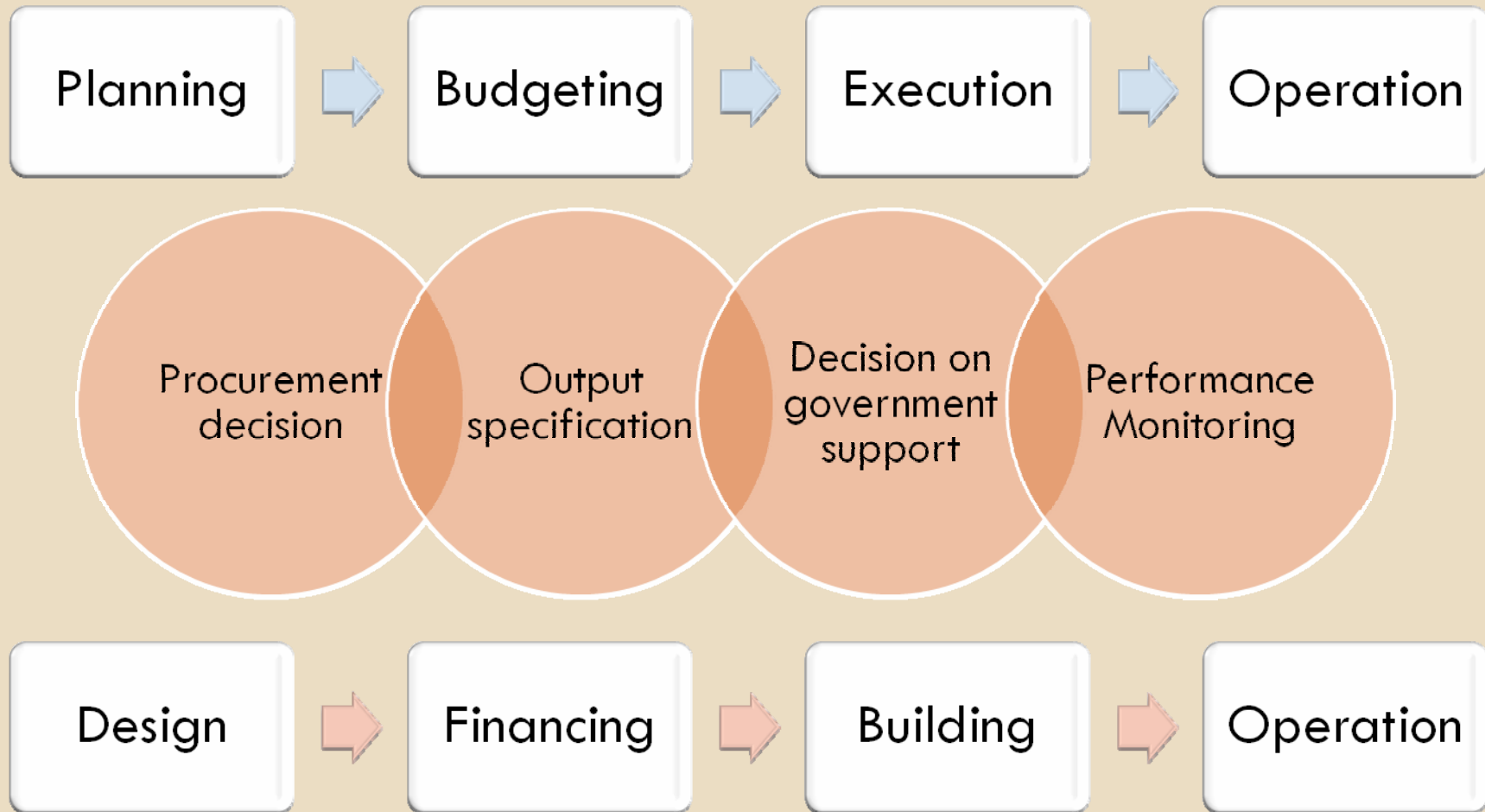
Public Infrastructure



Public Infrastructure + Private Participation



Additional Functions required for PPP



Ministry of Energy

**Ministry of
Transportation**

Ministry of Construction

**Ministry of Urban
Infrastructure**

Other Line Ministries

Local Governments

Ministry of Planning

Ministry of Finance

PPP Committee

PPP Unit

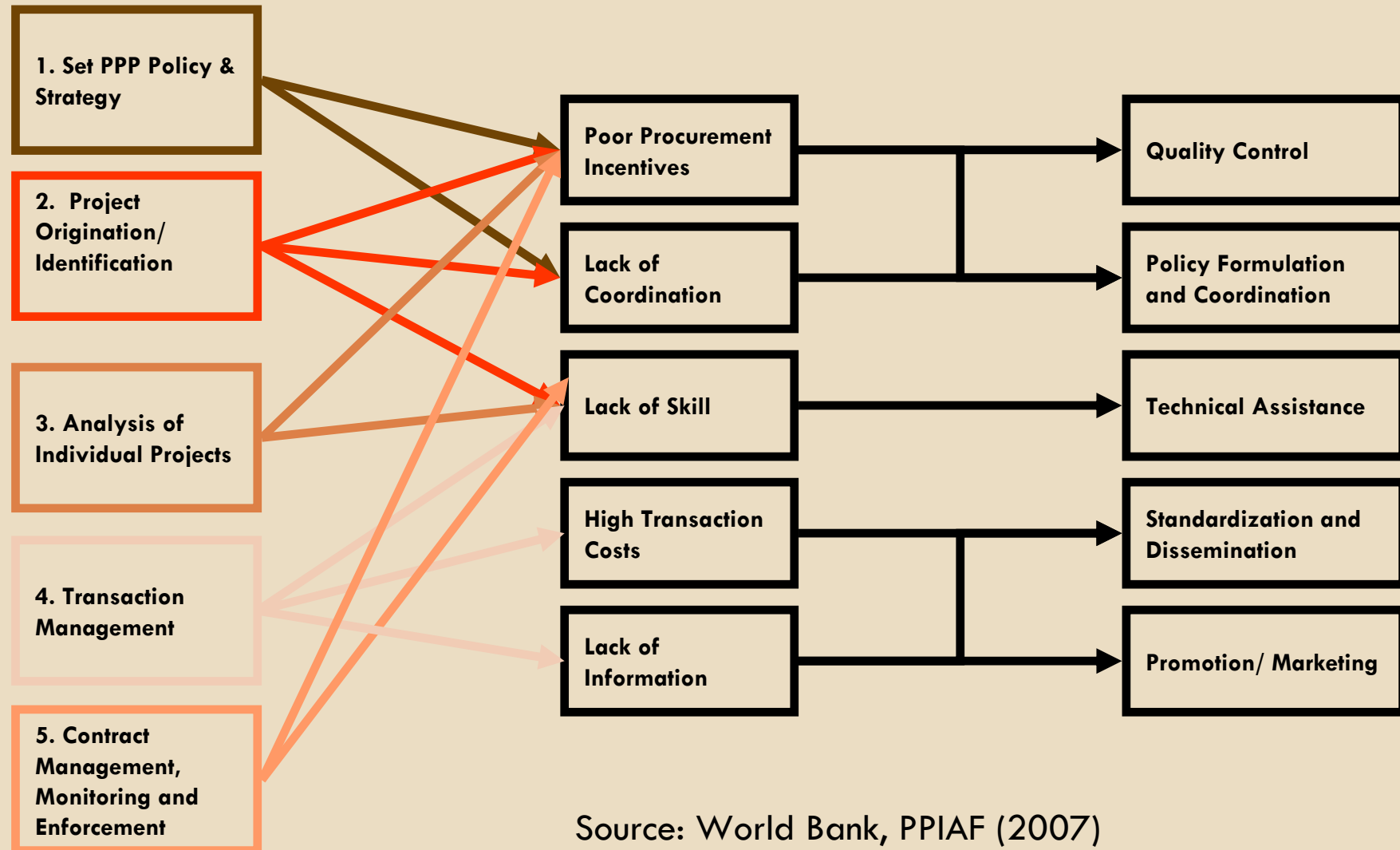
- ✓ Leading Government Ministry
- ✓ PPP Unit
- ✓ Risk Management Unit
- ✓ PPP Nods
- ✓ PPP Board

PPP Unit

What is PPP Unit?

- Specialized unit for assisting PPP program
- Advisory role for policy + Transactional advisory for projects
- International experience shows countries with PPP units have positive performance including UK, Australia, South Africa, India, Korea
- Location, mandates, governance vary country by country
- Many countries have shown positive experience and it's becoming a trend in many countries starting PPP program to set up a PPP unit
- There are no single design of PPP unit, and all country need to customize the design of PPP unit according to the local context
- **HOWEVER**, PPP unit is not a prerequisite nor a guarantee for successful PPP

How do PPP Units Address Government PPP-Related Failures?



Source: World Bank, PPIAF (2007)

Role PPP Unit & Difficulties in Public Sector

Public Sector

- ❑ Lack of clear policy conforming to the international standard
- ❑ Lack of skills for identifying, analyzing, and developing PPP projects
- ❑ Long and unfamiliar procurement process
- ❑ Lack of coordination
- ❑ High transaction cost
- ❑ Lack of capacity

PPP Unit

- ❑ Policy advisory
- ❑ Project advisory
- ❑ Policy & project advisory
- ❑ Facilitation
- ❑ Project advisory
- ❑ Capacity building

Role PPP Unit & Difficulties in Private Sector

Private Sector

- ❑ Lack of information
- ❑ Unfamiliarity with PPP process
- ❑ Lack of capacity to make large investment
- ❑ Unfamiliarity with the local context
- ❑ Difficulty in handling multiple contact point at the government
- ❑ High transaction cost
- ❑ Lack of capacity building

PPP Unit

- ❑ Marketing
- ❑ Research
- ❑ Knowledge Dissemination
- ❑ Capacity building

Role of PPP Unit

1. Policy advisory

- Macroeconomic aspect
- Government support
- Accounting and monitoring

2. Technical assistance

- Project selection and development
- Standardized documents
- Negotiation
- Ex-post management

3. Investment promotion

- Conference
- Road show

4. Research

- International best practice
- Review of previous transactions

5. Capacity building

- Line ministries
- Local governments
- Private sector

Different design by countries

	Victoria, Australia	BC, Canada	Ireland	Italy	Netherl ands	Philippi nes	South Africa	UK
Information and guidance	v	v	-	v	v	v	v	v
Project advise	v	v	v	v	v	v	v	v
Project developer		v	v					v
Funding for PPP preparation						v	v	v
Contract monitoring	v	v			v	v		v
Approval power						v	v	v

Source: Duts (2006)

Location of PPP Unit

- Inside of government
 - PV, Australia
- Outside of government
 - PBC, Canada
 - PIMAC, Korea
- Joint venture/ PPP
 - PUK, UK

Staffing of PPP Unit

- Staffs are PPP specialists who are familiar with the public and private practice together
- The staffs includes economist, finance specialist, accountants, lawyers, as well as engineers in all sectors covered by PPP law
- If the unit is located within the government, the payment level sometime becomes issue.
- High turn over rate of PPP staffs can emerge as an issue after the Unit becomes fully operational.

Staffing of PPP Unit

- Directly funded by the government
- Charge fees to the public sector
- Combination
- PV, Australia
- PUK, UK
- PIMAC, Korea

PPP Unit may not be always successful

- IF it doesn't demonstrate leaderships and specialties
- Line ministries which have a long experience in traditional procurement may not want to cooperate with new agency
- It is important to prove the efficiency and provide incentive to use PPP
- Close alignment with the central government is very important
- Good planning practice should be in place regardless of PPP or public infrastructure
- In the end, the success of PPP unit is defined by the success of PPP program in the country

Key Messages from Benchmark Study*

Source: World Bank (2009). The study is currently underway.

Policy coordination and fiscal support

- PPP programs tend to function well when:
 - Sector agency develops and promotes PPP projects, which are reviewed by a central agency/forum
 - Documentation (a) contains detailed requirements with respect to economic and financial feasibility studies and (b) establishes clear criteria for obtaining direct or contingent government fiscal support for a particular project
 - The decision whether to provide fiscal support, and if so the type of fiscal support to be provided (direct or contingent), is **closely integrated into the central agency/forum's decision whether or not to advance a PPP project to the bidding/tender phase.**

Policy coordination and fiscal support: India

- For large national level projects the PPP Appraisal Committee (PPPAC) is convened. The PPPAC consists of Secretaries from MOF (two departments), Planning, Legal Affairs and of the concerned sector ministry.
- The PPPAC has developed standard approaches for project review and clearance. Line agencies prepare feasibility studies (financial and techno-economic) and project documents and submit these to the PPPAC for in-principle clearance. If cleared the line ministry then issues the RFQ. The draft RFP is then prepared and submitted to the PPPAC for final approval. The agency pursues the bidding process
- All issues of risk allocation and fiscal support are contained in this one mechanism and considered prior to key go-ahead steps in the process

Policy coordination and fiscal support: Korea

- All projects – whether PPP or public – undergo a prefeasibility study. Projects are implemented as PPPs based on results of feasibility study, value-for-money and availability of government resource for fiscal support
- For large national level projects the PPP Committee is convened. The Committee is chaired by Ministry of MSF (Finance), and attended by all vice-ministers of concerned line ministries. A decision on the fiscal support is made before bidding. Change in fiscal support is possible, but needs to be re-approved by the Committee
- PIMAC works as a technical arm carrying out most of the study and analysis, and reports to MSF and the PPP Committee. PIMAC has developed standard documents for project evaluation, FS, VFM Test, RFP, Output Specification by Sector, and Concession Agreement
- All issues of risk allocation and fiscal support are contained in this one mechanism and considered prior to key go-ahead steps in the process

Project Preparation and Decision-Making

- Successful PPP programs have sector agencies that are motivated to pursue PPPs
 - India: NHAI (highways) has to trial PPP option first under toll and service payment approaches
 - In the Netherlands, line ministries must demonstrate they have considered both PPP and conventional public procurement modalities, and selected the one that offers best value for money
 - South African government agencies use a value-for-money analysis and appear genuinely motivated to consider PPPs
- Ministries of Finance often plays a strong role in motivating use of PPPs including providing additional funds for developing and implementing PPPs

Motivating PPPs: India

- Viability Gap Fund provides public agencies with additional resources to pursue PPPs
 - Clear guidelines established on type of projects supported and maximum level of support
 - Risk allocation and contract documentation evaluated as part of decision to proceed
 - **Level of VGF is sole bidding criteria**
- To encourage proper due diligence the government has established the India Infrastructure PDF:
 - An interest-free loan to cover 75% of project development costs, funding transaction advisors
 - Sponsoring agency has to spend/commit 25% first

Motivating PPPs: Korea

- Ministry of Planning and Budget (currently Ministry of Strategy and Finance after being merged with the Ministry of Finance) was in charge of overall PPP policy, and also in charge of allocating budget for both public and private infrastructure. MPB could see PPP as an important vehicle for making public funds deliver more services
- Eminent domain was clearly provided through PPP law and not through other modalities of private finance
- Technical Assistance available through KDI was low in cost, high in credibility
- Political motivation at local level: decentralization placed emphasis on public service delivery in elections – PPPs a good way of delivering more services