

Inadequate Transparency and Insufficient Disclosure in Infrastructure Projects with Private Sector Participation: Causes and Effects

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It is generally recognized that infrastructure development is one of the keys to a country's international competitiveness. However, many studies have identified binding constraints to infrastructure development in the Philippines. Although many problems have dogged the development of the system of private sector participation (PSP) in infrastructure projects in the Philippines in the last few years, one of the least analyzed and least scrutinized is also one of the root causes of problems: the lack of transparency. A lack of transparency and adequate disclosure exists when stakeholders have insufficient information and disclosure about:

- a) the terms and conditions under which infrastructure service providers operate;
- b) pricing, quality standards, service obligations, license fees, and public support through guarantees and subsidies in PSP projects;
- c) the rights and obligations of consumers of infrastructure services, thus allowing them to play more informed roles in evaluating the performance of service providers and in contributing to regulatory processes; and
- d) the performance of on-going infrastructure projects, the difference between ex ante expectations and ex post outcomes, and their adherence to contractual agreements.

Having sufficient information and disclosure in the project development cycle ensures that stakeholder expectations are realistic, and that contract and financial terms are fiscally feasible and attainable. It would strengthen overall regulation of PSP infrastructure and allow consumers to play more informed roles in evaluating the performance of service providers and in contributing to regulatory processes. It would make public the obligations that the government has towards the service provider, and towards consumers. It would also reduce perceptions of impropriety or corruption surrounding PSP transactions and contracts, contributing to the maintenance of integrity and stability of contractual agreements in the long-run. Improved transparency and disclosure would strengthen incentives for governments and service providers to ensure contracts are carefully thought through, and then are adhered to. Public disclosure also facilitates benchmarking of approaches between jurisdictions, thus allowing governments and their citizens to better assess whether particular arrangements were reasonable. Lastly, transparency facilitates the dissemination of good practices in PSP and allows all parties to design better and more incentive-compatible contracts in the future.

A quick glance at the project development cycle outlined in the succeeding pages suggests that improved transparency and disclosure benefits all stages and stakeholders. The

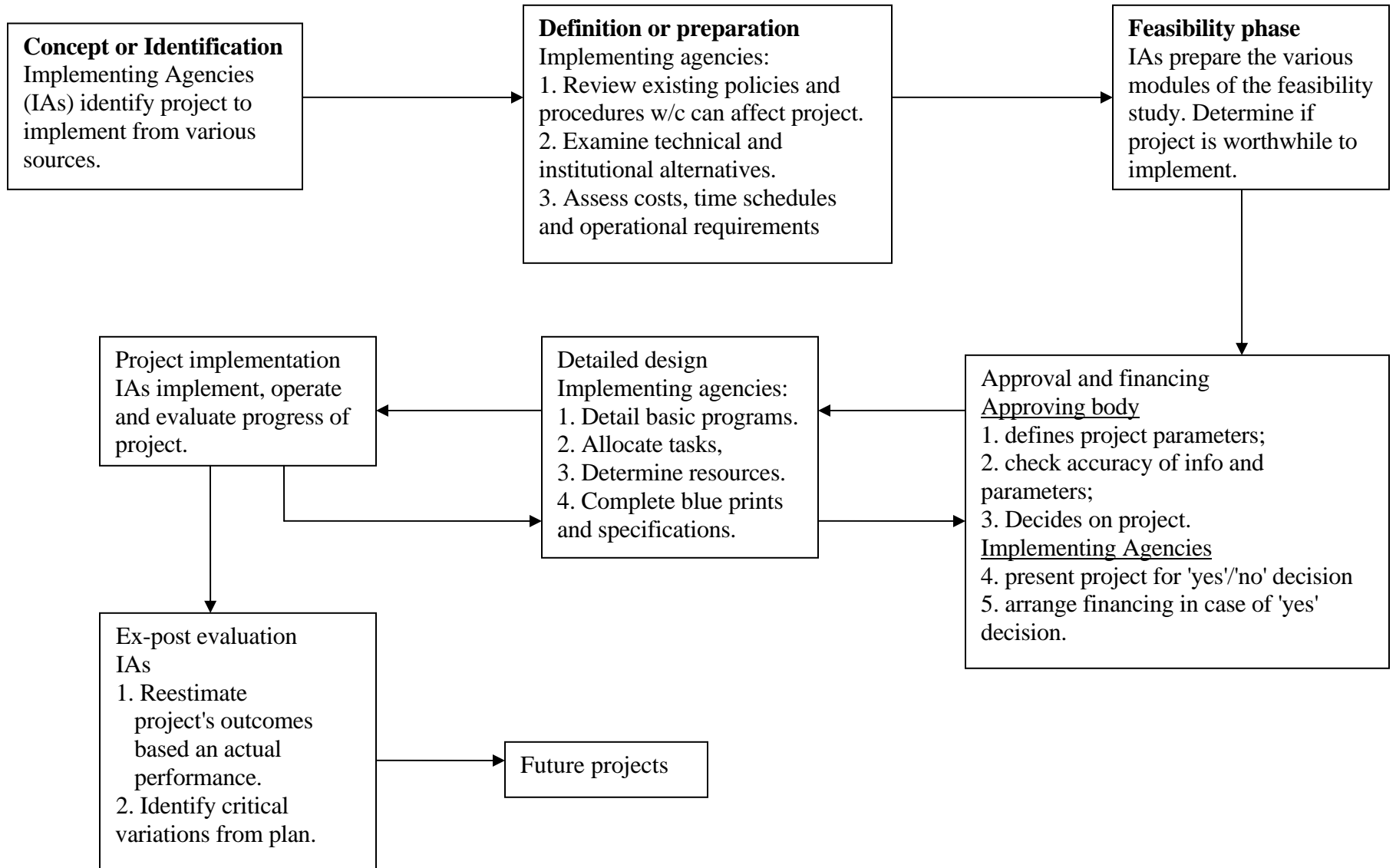
process of project identification, preparation and feasibility determination would stand to benefit from information regarding past successes and failures from a clearer ex post analysis of on-going projects, to identify whether expectations have been met or not. Government approving bodies and financial institutions would be better able to assess whether underlying assumptions and forecasts, (especially of demand and other crucial project parameters) are reasonable. Project implementation would benefit as the obligations of service providers and government are well-known, leading to fewer legal disputes and reversals along the way. Regulators would have a better idea for the basis of pricing infrastructure services. The level of government risk, exposure, tax expenditures and subsidies would also be monitored on a per-project basis and systemically, to avoid the current problems being faced related to excessive guarantees. In addition, government can do a better job at screening future PSP applicants and monitoring them, thereby reducing well-known agency problems such as adverse selection and moral hazard. More incentive-compatible contracts could be designed for PSP in this regard. Finally, better ex post access to PSP contracts would allow for easier verification and analysis, essential for improving future project development.

It is clear therefore that adequate transparency and disclosure brings down fiscal and transactions costs for PSP in general, thereby facilitating infrastructure development in the country. Lack of transparency and disclosure tends to throw sand in the cogs of infrastructure development and undermines the Philippines' national competitiveness.

With respect to the above issues, the following discussion questions could motivate the discussions in this forum:

- 1) What strategies could be used to accelerate the disclosure of infrastructure arrangements in developing countries?
- 2) How much transparency is enough - what kinds of disclosures are required?
- 3) Are there valid confidentiality or other concerns that should be considered in restricting access to infrastructure contracts and licenses?

Components of the Project Cycle



Phases Actors	Identification	Preparation	Feasibility	Approval and Financing	Implementation	Operation/ Monitoring	Post- Evaluation
Implementing Agencies (IAs), DA, DPWH, DOTC, DECS, DOH, NPC	IA identifies the project it wants to implement from the priority sector activities of the MTPDP and/or the MTPIP	IA defines and refines the project concept it wishes to implement.	IA prepares the various modules of a feasibility study Determines if the project is worthwhile to implement.	IA submits the project (if it is for ODA, LF or BOT) to NEDA for approval by the ICC	IA conducts detailed design of project (ODA or LF) and other preliminary activities, e.g., ROW acquisition. IA implements the project	IA operates ODA or LF project	IA reestimates project's outcomes on actual performance. Identifies critical factors in the success or failure of project.
				For BOT projects, IA bids out Project (If OKed) and negotiates with private sector proponent.	IA monitors progress of BOT implementation	IA monitors progress of BOT operation.	
Oversight Agencies (NEDA, DBM, DOF, BSP)	NEDA drafts the 6 -year MTPDP and 3-year rolling MTPIP, in coordination/ consultation with the various government entities (executive and legislative, national and	NEDA Regional Offices can provide assistance in the soliciting of local government or or community support to the project	NEDA may submit project to donors for technical assistance (TA) n in the preparation of a feasibility study.	NEDA prepares project evaluation report for the ICC. ICC determines the feasibility of the project approves if project is beneficial to the country	DBM provides budget allocation for ODA or LF project NEDA monitors progress of ODA project implementation BOT Center monitors progress of BOT project	NEDA, DBM and sectoral agencies conduct sectoral reviews to input to the next planning cycle.	NEDA and sectoral agencies conduct sectoral reviews to input to the next planning cycle.

	local) and private or people's organizations.			<p>If ODA-project, NEDA, DFA Submit project (if OKd) to donors for funding</p> <p>DOF negotiates with donors for funding</p>	implementation		
				<p>MB/BSP provides approval its principle (and subsequent loan approval) for ODA loans and loans to be incurred for BOT projects</p>			
Donors (WB,ADB, OECF, EU, AusAID)			<p>Donors can provide TAs for the feasibility study of projects</p>	<p>Donors determine feasibility of project</p> <p>Donors negotiate with GOP on funding of project</p>	<p>Donors finance project. Monitors progress of project implementation</p>	<p>Donors monitor operation of ODA project</p>	<p>Donors evaluate success of projects to feed into sectoral reviews</p>
Private Sector Proponent/ Funders				<p>Private proponent bids for BOT project and negotiates with IA</p> <p>Arranges financing for BOT project</p>	<p>Private proponent conducts detailed design.</p> <p>Private proponent implements BOT project.</p> <p>Private banks and equity holders provide financing.</p>	<p>Private proponent operates BOT project.</p>	