Trends and Stakeholder Perceptions Regarding the Standardization of Project Documentation

Standardization of Projects/ Loan Agreements Panel
- GIF Advisory Council Meeting

Singapore – October 16, 2018

C. Paul
Counsel
Infrastructure, PPPs and Guarantees Group
The World Bank
Overview

I. Main Drivers for Standardization

II. Trend Towards National Standardization Initiatives

III. Standardization on an International Level

IV. Stakeholder Perceptions: Too much or too Little of a Standard?

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I. Main Drivers for Standardization

Reduction of negotiation time and procurement processes

Reduction of transaction costs

Transparency and creating market comfort
I. Main Drivers for Standardization (cont’d)

- Increased understanding around standard market and contract terms
- Consistency for one sector or across several sectors
- Maximizing potential of available bank or alternative financing
II. Trend Towards National Standardization Initiatives

• Trend towards in-country standardization over the past couple of years:
• 52 countries out of 135 developed at least one model contract and/or standardized transaction document applicable for PPP transactions (2018 Procuring Infrastructure PPPs Report)
• But great variance as regards the approach chosen towards and the level of standardization:
  - Contract standardization as part of general efforts to improve a PPP framework
  - Detailed contractual provisions for use across sectors on a mandatory or recommended basis – particularly found in well-established (PPP) markets (such as the UK)
II. Trend Towards National Standardization Initiatives (cont’d)

- Standardization limited to a set of key contractual provisions based on international good practice together with guidance on their application in the respective national context
- Templates for specific PPP transactions (e.g., Ireland and the Netherlands)
- Templates for specific sectors (e.g., the US and India)
- Requirements for key PPP contractual provisions enshrined in overall legislation (e.g., Chile and Kazakhstan)

- Standardized PPP contracts aside, increasing development of other templates for other model project finance documentation, particularly for specific sub-sectors – examples are IFC’s Scaling Solar Program for large-scale grid-connected solar PV projects and South Africa’s Renewable Energy Independent Power Producers Procurement Program (REIPPPP)
III. Standardization on an International Level

  - Focused on eight selected provisions typically encountered in every PPP agreement, highlighting differences between markets and legal systems and setting out key aspects for contracting authorities to bear in mind in each case
  - Considerations related to bond-financed and corporate financed PPP transactions

  - 12 risk allocation matrices for designated types of projects within the transport, energy, water and sanitation sectors highlighting differences for different markets and project types
  - Information on mitigative measures and typical government support arrangements
III. Standardization on an International Level

- The G20 MDB Infrastructure Cooperation Platform:
  - Aimed at improving MDB project preparation, standardization of guarantees and credit enhancement tools
  - Part of this is, e.g., the development of a “Standard Infrastructure Guarantee MDB Approach” (SIGMA) to lead to standardized products and documentation such as government guarantees so that underlying project cash-flows become more predictable.
IV. Stakeholder Perceptions: Too Much or Too Little of a Standard?

- Themes of stakeholder feedback – government agencies, private sector (mostly project developers and lenders) as well as civil society organizations – on international standardization efforts, taking the World Bank Guidance on PPP Contractual Provisions as an example:

  - No one size fits all – striking the right balance between setting out standard language and contextualizing the clauses (understanding the whole context of a PPP project (and most importantly risk allocation matters)
  - Starting point versus prescriptive nature
  - Adding further provisions versus providing more alternative drafting options within existing clauses
IV. Stakeholder Perceptions: Too Much or Too Little of a Standard? (cont’d)

Themes of stakeholder feedback on international standardization efforts, taking the World Bank Guidance on PPP Contractual Provisions as an example:

- How are respective clauses selected for standardization? On which basis could/should further provisions be chosen?
- Whose views matter (most) – who are relevant stakeholders?
- Depicting current market practice or forward looking/setting standards for the future?
- Does it make a difference? How effectively is the Guidance used?
- Does an expansion beyond standard clauses derived from project agreements make sense?
V. Next Steps?

- New versions of both the World Bank Guidance on PPP Contractual Provisions and the GI Hub’s Risk Allocation Tool are envisaged for release by summer 2019:
  - 2019 edition of the Risk Allocation Tool: update of existing 12 risk allocation matrices and seven additional matrices for designated projects in further sectors
V. Next Steps? (cont’d)

- Envisaged timeline for works on new edition of Guidance:
  - Late fall 2018 – early 2019: Drafting stages
  - Early 2019: Release draft for public consultations (virtual and face-to-face)
  - Summer 2019: Publication of new edition
VI. Polling Questions

- Would governments and investors benefit from additional efforts to standardize project and/or finance documents for typical PPP transactions on an international basis?

- If so, is there merit in expanding efforts from project agreements to respective financing agreements?

- Should the focus shift to putting more emphasis on/supporting national standardization initiatives?
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