

Modernizing the State

Promoting quality
services to the population

Public-Private Partnerships Framework Policy



JUNE 2004

Québec 

Public-Private Partnerships Framework Policy



Message from the Chair of the Conseil du trésor

**Public-private partnerships –
Improving ways of doing things**



The 2004-2007 Modernization Plan that I made public in May 2004 lays the groundwork for many major projects that will enable us to substantially change State operations and State relations with the population.

It is in this context that I am presenting the Public-Private Partnerships Framework Policy, which reflects the government's intention to increasingly use this method to carry out projects as other governments have successfully done in Canada and abroad. The policy seeks to obtain better quality services at lower cost, employ the private sector's innovativeness and expertise when beneficial, reduce the costs, delivery times and risks inherent in infrastructure projects or service delivery and take full advantage of competition.

The policy entails a structured approach for assessing projects with public-private partnership potential. This approach is based on preparing a business case designed to show that the population stands to "win" in terms of service cost and quality.

This approach differs from that of privatization since the government maintains its control of the project and shares risks with partners who are in a better position to manage them. Moreover, at the end of the agreement, the government may become the sole owner of the infrastructures in question. From a real estate viewpoint, this is a good investment. Let us be clear, we will not build everything on the basis of a PPP formula. The method we are presenting today is designed to ensure that for each and every project studied, the government selects the arrangement that offers the greatest value for the public funds invested.

In addition to adopting a framework policy, we need to group expertise and authority under the auspices of a single agency mandated to advise the government, ensure that the best practices are widely employed and standardize processes and documentation. This agency will also supervise and support the government departments and agencies in assessing projects, choosing the best possible partner, negotiating agreements and monitoring them.

With the collaboration of all involved, through this public-private partnerships framework policy and the implementation of the Agence des partenariats public-privé du Québec, the government has adopted additional tools to ensure that our infrastructures are modernized at the lowest possible cost to the population.

A handwritten signature in black ink, appearing to read 'Monique Jérôme-Forget'.

Monique Jérôme-Forget
Chair of the Conseil du trésor and
Minister responsible for Government Administration

Table of Contents

Message from the Chair of the Conseil du trésor	i
1. Policy statement	1
1.1 Scope	1
1.2 PPP project selection criteria.....	1
2. Goals and guidelines	2
2.1 Guidelines.....	2
2.1.1 Guidelines designed to help public bodies give precedence to the best possible practices.....	2
2.1.2 Guidelines designed to help public bodies encourage the participation of stakeholders	3
3. PPP project approval process	4
3.1 PPP project selection	5
3.2 Solution approval and budget availability	5
3.3 Value for money analysis	5
3.4 Procurement process	5
3.5 Contract awarding	6
3.6 Contract management.....	6
4. Roles and responsibilities.....	7
Appendix 1 PPP concept	8
Appendix 2 Means of carrying out public projects	10
Appendix 3 Business case guide	11
Appendix 4 Glossary.....	13

1. POLICY STATEMENT

In order to better meet the population's needs and provide quality services at lower cost, the Québec government encourages public-private partnerships (PPP) when they clearly offer greater added value for the public funds invested.

In the future, a business case must be prepared using the method developed by the Secrétariat du Conseil du trésor before major infrastructure and service delivery projects can be authorized.

The PPP policy states the goals and principles underlying this new way of doing things and defines the framework that governs the implementation of PPP projects.

Guides and other tools will complement the policy to facilitate the work of public bodies.

1.1 SCOPE

The policy applies to the following public bodies:

- government departments and agencies;
- cegeps;
- school boards;
- universities;
- public health and social services establishments and regional health and social services boards;
- municipal agencies for projects funded primarily by the government or its agencies.

1.2 PPP PROJECT SELECTION CRITERIA

The major infrastructure and service delivery projects selected for assessment using the PPP method generally:

- improve service delivery to the population;
- involve significant financial commitments by the State;
- are technically complex and high-risk;
- have a potential for creativity and innovation likely to take advantage of the know-how of private sector;
- reflect an existing, competitive market.

Based on these criteria, the Agence des partenariats public-privé du Québec advises the government on PPP project selection and priority ranking.

Until the Agency has been fully implemented, public bodies are asked to contact the Direction des partenariats d'affaires of the Secrétariat du Conseil du trésor for help and advice regarding PPPs.

2. GOALS AND GUIDELINES

The policy's goals are threefold:

- give precedence to the best possible practices related to infrastructures and public service delivery;
- support public bodies in a structured approach designed to ensure that the method chosen for implementing projects offers Quebeckers the best possible quality/price ratio;
- encourage the participation of the stakeholders.

2.1 GUIDELINES

These goals give rise to ten guidelines. Five seek to support public bodies in their efforts to give precedence to the best possible practices and five are designed to encourage the participation of the stakeholders.

2.1.1 Guidelines designed to help public bodies give precedence to the best possible practices

Confirmed, justified need:

Public bodies must show that the projects envisaged meet well-founded needs. They must also correspond to ministerial and governmental priorities.

Emphasis on results:

Before submitting their projects for PPP assessment, public bodies must look at the entire range of possible solutions for meeting the need identified. In this regard, satisfying user needs is given precedence.

Affordability:

This guideline enables authorities to rule on their financial capacity to undertake projects envisaged early on. Public bodies must perform financial analyses to determine each project's overall costs (initial investment budgets and operating budgets).

Value for money:

Essentially, the public bodies should evaluate which option (PPP or conventional delivery method) offers the best evidence of value for money.

The Agency's intervention is required to perform these comparative analyses. If the PPP method does not offer the greatest added value for the funds invested, it is not selected.

Optimal risk-sharing

For the value analysis referred to in the above-mentioned guideline to be complete and for the PPP concept to be fully effective, project-associated risks must be analyzed. These risks should be allocated to the partner that can best manage them.

2.1.2 Guidelines designed to help public bodies encourage the participation of stakeholders

Fair, transparent process

This guideline seeks to:

- demonstrate the process' credibility to the population and guarantee that, when selected, the PPP solution offers the best value for money;
- promote healthy competition by ensuring bidders of fair treatment in the selection process of the private partner.

Public service quality and continuity

Public bodies are, at all times, responsible for the quality and availability of public services. In this respect:

- PPP agreements must be based on output specifications and payment must be based on performance;
- provision must be made for monitoring and dispute settlement mechanisms;
- contracts must include clauses on PPP contract termination.

Accountability

Using PPPs for infrastructure or service delivery projects does not change public bodies' accountability requirements since they are responsible for these projects at all times and must:

- ensure that they obtain all relevant information from the private partner to enable the public body to report on service quality and availability.
- take private partners' rights into account in terms of protecting information that might jeopardize their competitive standing.

Protection of public interest

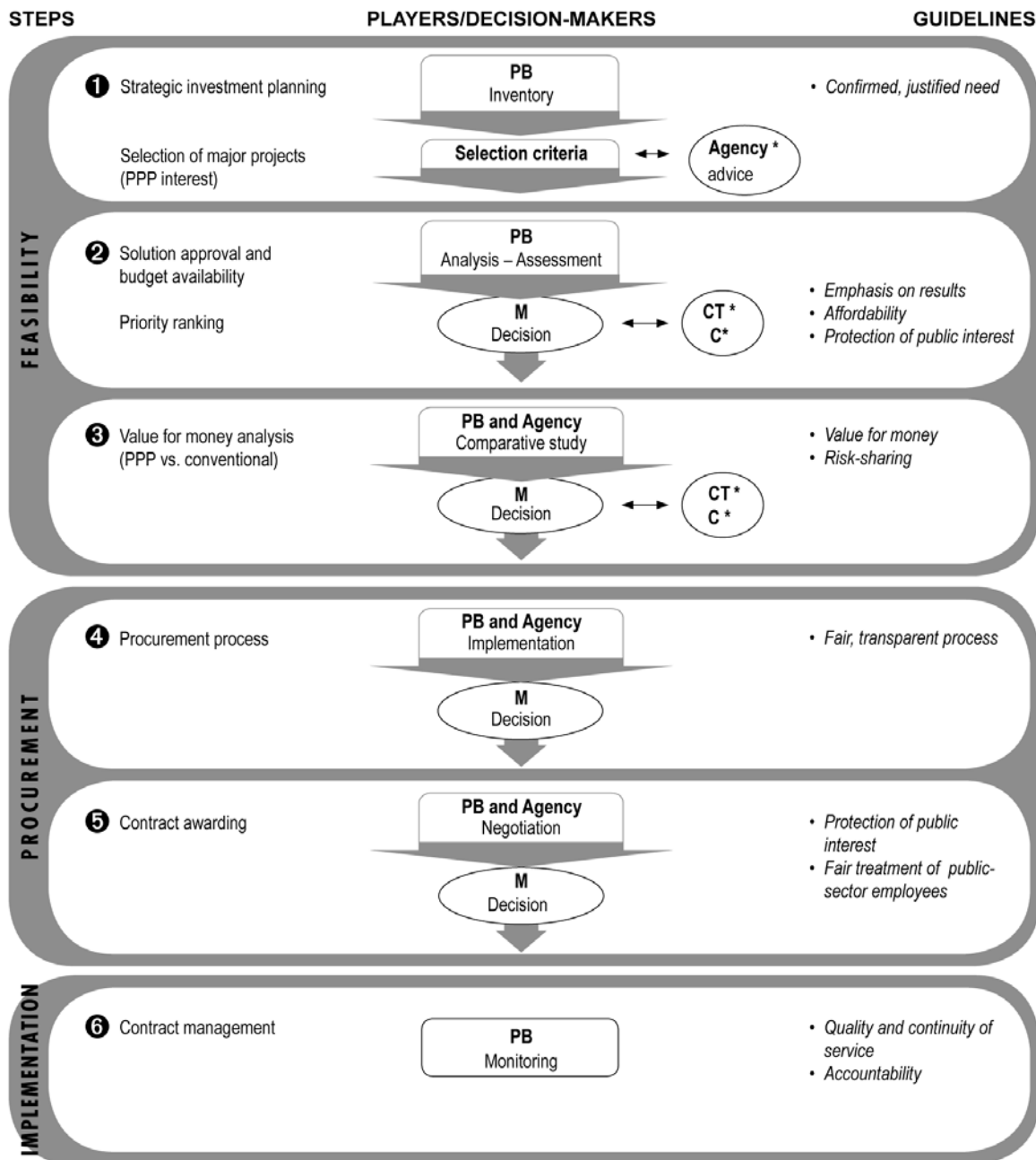
PPP project planning is often more complex than planning associated with conventional projects. A consultation and communication process must be implemented to meet the concerns of those affected by the projects proposed.

Fair treatment of public-sector employees

The government recognizes the important contribution made by public-sector employees. Public bodies must ensure that public-sector employees who agree to work for private partners have working conditions that are no less than equivalent to those offered by the public sector.

3. PPP PROJECT APPROVAL PROCESS

This policy requires major changes in PPP project public investment authorization practices. The following diagram shows the steps in the PPP project approval process.



Legend:

Agency: Agence des partenariats public-privé du Québec
 PB: Public bodies
 M: Minister

CT: Conseil du trésor
 C: Cabinet
 *: If necessary

3.1 PPP PROJECT SELECTION

Public bodies must use the criteria indicated (in Section 1.2) to determine which projects have good PPP potential. They are encouraged to use the methodology set out in the business case guide (cf. summary in Appendix 3) for their preliminary assessments.

The Agency may be asked to help public bodies in this regard. The Agency's opinion does not waive the required project approval.

Unsolicited PPP projects

Any unsolicited PPP project resulting from a private-sector initiative must be submitted to the public bodies responsible for determining whether the proposal meets a confirmed, justified need. The public body must then follow the PPP approval process and respect the confidential nature of the unsolicited proposal.

3.2 SOLUTION APPROVAL AND BUDGET AVAILABILITY

For all PPP projects envisaged, public bodies are asked to:

- inventory possible solutions;
- select the most appropriate or most acceptable solution;
- provide an overall project cost estimate and project budget impacts throughout its useful life (design, build and operate).

These preliminary assessments are submitted to ministerial authorities to allow them to rule on project affordability, i.e. foreseeable impact on their operating budgets, and on the desirability of including projects in their multi-year investment plan.

These evaluations also help ministerial authorities decide which projects to include in the government multi-year investment plan (PTI and others) with Secrétariat du Conseil du trésor approval when required.

3.3 VALUE FOR MONEY ANALYSIS

This step is designed to ensure that a PPP offers the best value for the taxpayers' dollar compared to the usual manner of doing things.

Public bodies must consult the Agency for guidance in this comparison, which is based on the methodology set out in the business case guide. The Agency supports them in obtaining ministerial and government approval.

3.4 PROCUREMENT PROCESS

For projects reaching this stage, the Agency works with the public bodies responsible for the project to determine the steps in the procurement process in order to promote healthy competition and respect the principles of fairness and transparency.

The Agency supports the public bodies in their efforts to obtain ministerial and government approval.

3.5 CONTRACT AWARDING

The complexity of PPP contracts requires rigorous prior risk definition, risk evaluation and risk allocation to the different partners.

The Agency works with the public bodies to draw up PPP contracts to be signed with private partners specifying risk-sharing and the performance criteria linked to payment.

3.6 CONTRACT MANAGEMENT

To effectively manage their agreements and relations with private partners, public bodies must:

- adjust their organizational structures and adapt their management practices;
- set up multidisciplinary teams specializing in PPP contract management and monitoring.

The Agency supports the public bodies in managing PPP contracts.

4. ROLES AND RESPONSIBILITIES

AGENCE DES PARTENARIATS PUBLIC-PRIVÉ DU QUÉBEC

The central PPP entity, the Agency is a centre of knowledge and expertise for PPP project implementation.

As such, it:

- advises the government on PPP project selection and priority ranking;
- helps public bodies select PPP projects;
- proceeds at project value for money analysis, in conjunction with public bodies, using the methodology set out in the business case guide;
- implements and manages the contract awarding process in conjunction with public bodies;
- supports public bodies in PPP contract management.

Until the Agency has been fully implemented, public bodies are asked to contact the Direction des partenariats d'affaires of the Secrétariat du Conseil du trésor for help and advice regarding PPPs.

CONSEIL DU TRÉSOR

Where PPPs are concerned, the Conseil du trésor is responsible for the following:

- develops orientations, policies and directives and proposes them to the government;
- authorizes the overall budgets for public body investment projects;
- where applicable, authorizes budgets specific to PPP projects.

PUBLIC BODIES

With regard to the PPP policy, public bodies are responsible for:

- selecting the projects for which the PPP option is considered as of the strategic planning stage, using the PPP project selection criteria (cf. Section 1.2);
- obtaining the approval required regarding the affordability of the solutions selected;
- working with the Agency to proceed at project value for money analysis, particularly in terms of project-related technical assessments;
- working with the Agency to implement the procurement process;
- PPP project accountability.

APPENDIX 1 PPP concept

1 DEFINITION

A public-private partnership (PPP) is a long-term contract:

- in which a public body works with a private-sector enterprise to design, build and operate public administration projects;
- that defines responsibility-sharing, risk-sharing and profit-sharing between public and private partners;
- that stipulates objectives for enhancing public service delivery.

Such agreements may apply to projects involving infrastructures or equipment or public service delivery and require funding by the private sector.

2 MAIN FEATURES OF A PPP

- optimal risk-sharing by having the risks taken by the partner best able to manage them;
- service delivery based on output specifications;
- payment based on service availability and performance;
- the public authority retains control of the service at all times and remains accountable to the population.

3 USE OF PPPS

Public administrations use public-private partnerships primarily for the following reasons:

3.1 IMPROVE QUALITY OF SERVICE DELIVERY TO THE POPULATION

Using the expertise of private enterprise generally makes it possible to offer the population better quality services through the use of proven working methods, innovative technologies and effective operating methods.

3.2 ACCELERATE PROJECT COMPLETION

Conventional procurement usually divide projects into several stages: design, building, operation. By using a PPP to have a single private partner deal with all of these stages, project completion time may be significantly shorter.

3.3 PROMOTE BETTER RISK MANAGEMENT

In PPP projects, the risks are handled by the partner best able to manage them. For example, correcting design errors discovered in the construction stage is one of the risks to be taken by the private sector if it has been assigned all of the responsibilities associated with a project.

3.4 INCREASE PUBLIC ADMINISTRATION PRODUCTIVITY

The innovative solutions resulting from a competitive private market and private and public sector emulation where service delivery is concerned promote enhanced productivity.

4 ADVANTAGES OF PPPS

4.1 RIGOROUS PLANNING PROCESS

The PPP formula requires government authorities to implement a rigorous process based notably on defining objectives and evaluating total service delivery costs.

4.2 COST REDUCTION OVER THE PROJECT'S USEFUL LIFE

Not dividing a project into several contracts allows a better integrated solution to be developed and promotes savings. It encourages the use of new materials, technologies and work methods.

4.3 FRAMEWORK CONDUCTIVE TO INNOVATION

A PPP is a contractual agreement that stipulates objectives, leaves the choice of means to the private partner and promotes the adoption of innovative procedures, technologies and work methods.

4.4 EASIER BUDGET MANAGEMENT

The PPP agreement assures the public partner that it will receive a good or service according to clearly-defined objectives and at the price agreed to. Consequently, the public partner can establish its long-term budgets with greater certainty.

4.5 ADDITIONAL REVENUE SOURCES

Certain projects may offer a commercial potential resulting from surplus capacity. In some cases, the infrastructure required to carry out a project exceeds the capacity required to meet immediate needs. By selling this surplus capacity, the private partner may earn additional income, thereby enabling the public sector to carry out the project at less cost.

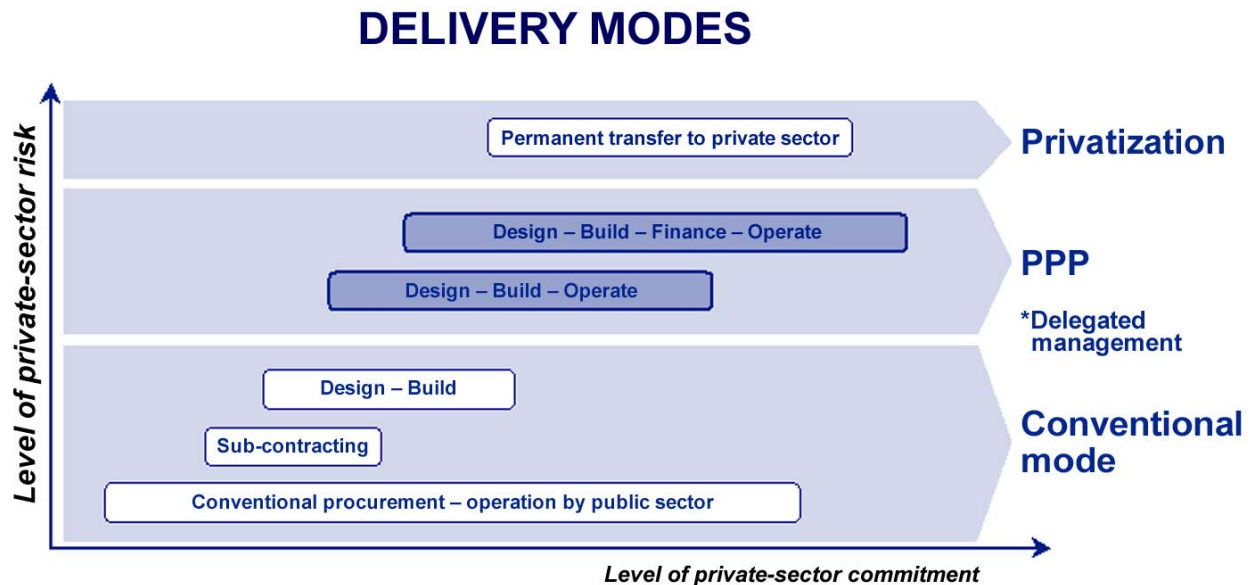
4.6 DEVELOPMENT OF EXPORTABLE KNOW-HOW

PPP projects will enable Québec's private enterprises to gain a new expertise needed in Québec, Canada and abroad.

APPENDIX 2 Means of carrying out public projects

Private partners can be involved to a varying extent in public projects depending on project scope and complexity, the magnitude of the risks assumed by the private sector and its level of commitment.

The following chart shows the main models¹ for each delivery mode, situating them according to the above-mentioned parameters.



Sub-contracting and privatization are not considered public-private partnerships.

Sub-contracting is generally defined as transferring activities or operations to the private sector that present low levels of commitment and risk.

Privatization refers to the definitive transfer to the private sector of the ownership of and responsibility for a good or service that formerly belonged to the public sector.

*Delegated management (“gestion déléguée”), a concept used primarily in France, is similar to a public service outsourcing formula subject to a user fee (cf. Glossary, Appendix 4). Public services that do not entail user fees (e.g. hospitals, prisons) are not subject to delegated management contracts. The PPP formula that France is currently studying seeks to allow partnerships in these areas.

¹ For a complete listing of models considered PPPs, refer to Appendix 4.

APPENDIX 3 Business case guide

This appendix gives an overview of the business case guide and its component parts. The complete version of this document is available in French from the Secrétariat du Conseil du trésor or on the Internet at:

www.tresor.gouv.qc.ca/marche/partenariats/index.htm

The methodology proposed is designed to structure information in order to help decision-makers choose the best solution and assess the PPP option. Note that this guide does not call into question or replace the decision-making process currently employed by public bodies nor does it offer pre-defined solutions. Each business case is unique and requires a customized approach and preparation.

The 10 steps in preparing a business case:

1. NEED
Origin, statement, components and documentation

2. OBJECTIVES
Specific goals, output specifications

The methodology begins by identifying and demonstrating the need associated with each investment project. The public body must clearly define this need by defining its components (1) based on output specifications (2) regardless of how to achieve them (means, method). This is done in keeping with the public body's strategic aims and the government's policies and priorities.

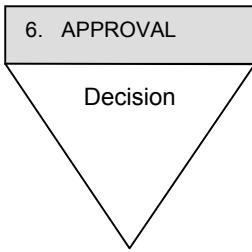
3. POSSIBLE SOLUTIONS
Solutions inventory

4. ASSESSMENT AND CHOICE OF SOLUTION
Evaluation criteria and selection of most appropriate solution

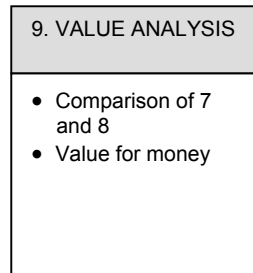
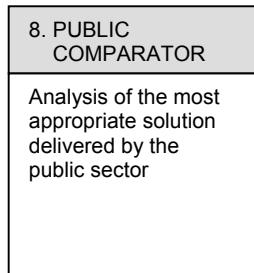
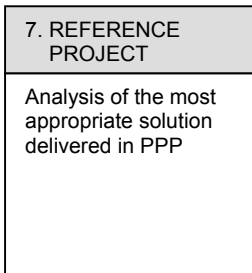
The first of these two steps involves inventorying all possible solutions (3) meeting the output specifications. All of these solutions are assessed using objective criteria so as to only select the best ones. These are, in turn, assessed (4) in greater detail to select the most likely solution.

5. PPP ASSESSMENT
Brief evaluation of PPP option

This step consists in determining whether the use of a PPP to deliver the most appropriate solution is proven to result in better quality or enhanced effectiveness compared to the conventional method (5).

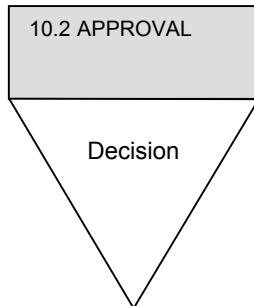
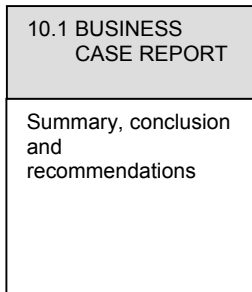


If the public body accepts the proposed solution and the PPP option seems desirable (6), the following come into play:



In step 7, the public body proceeds at a quantitative/qualitative analysis of the solution delivered in PPP mode. At step 8, the public body proceeds at a quantitative/qualitative analysis of the solution delivered by the public sector.

Comparing the reference project to the public comparator (9) aims at determining which of the two delivery modes offers the best value for money over the project's entire useful life.



The last step involves drafting the report that contains all of the information from the previous steps (10.1) and submitting the recommendations for decision-making (10.2).

APPENDIX 4 Glossary

Conventional method of public service delivery:

Usual ways of doing things such as in house delivery or in conjunction with other public bodies, sub-contracting, outsourcing and alliances with non-profit organizations.

Public-private partnership (PPP):

A long-term contract:

- in which a public body works with a private-sector enterprise to design, build and operate public administration projects;
- that defines responsibility-sharing, investment-sharing, risk-sharing and profit-sharing between public and private partners;
- that stipulates objectives for enhancing public service delivery.

Such agreements may:

- apply to projects involving infrastructures or equipment or public service delivery and require financing by the private sector.

Design, Build, Operate:

Partnership model where the private sector takes charge of responsibilities for designing, building, operating and maintaining a public infrastructure required for service delivery. Financing comes from the public sector and ownership is public throughout the contract's duration.

Design, Build, Finance, Operate:

Partnership model where the private sector takes charge of responsibilities for designing, building, operating, maintaining and financing a public infrastructure required for service delivery. At the end of the contract, ownership is transferred to the public sector generally at no cost.

Useful life:

Period of time for which an infrastructure is available and able to deliver public services according to pre-defined quality criteria.

Delegated management
(“gestion déléguée”):

Expression used primarily in France is similar to a public service outsourcing formula to an outside partner (private, public or mixed company) subject to a user fee. This formula covers the following types of contracts:

- “**Affermage**”: Contract in which an institution transfers operation of public infrastructures to a delegated enterprise. User fees cover the latter’s costs.
- “**Concession**”: Model identical to the “Design – Build – Finance – Operate” model except that the private partner is paid by user fees rather than by the public partner.
- “**Gérance**”: Contract in which an institution transfers operation of public infrastructures but continues to collect user fees.

Outsourcing:

This concept is similar to delegated management but generally applies to an existing public service. Outsourcing often involves transferring public service employees to the private enterprise awarded the outsourcing contract. Outsourcing may also involve the PPP models defined above.

Note, however, that not all outsourcing projects are considered PPPs. PPP status depends on project complexity, level of risk transferred to the private sector and the latter’s level of commitment. Outsourcing of basic services (payroll services, end user computer support) is generally not considered a PPP while so-called strategic outsourcing, such as taking care of a public body’s information technologies or implementing a centralized service for collecting and managing government’s savings vehicles, is a PPP.

Privatization:

Definitive transfer of a good or an activity that formerly belonged to the public sector.

Sub-contracting:

Activity or operation assigned to a third party (public entity, private enterprise, non-profit organization) that must be carried out according to the instructions and parameters clearly defined by the client.

In comparison, outsourcing refers more to managing the delivery of services grouping together various activities and operations and leaves the service provider greater latitude in the choice of means used to deliver the services.

Value for money:

Optimal combination required in terms of quality and cost over the infrastructure’s or service’s entire service life in order to meet user needs. This definition stresses both the quality and effectiveness of public service delivery.

**Secrétariat
du Conseil du trésor**

Québec

