

Implementation of the Government and Business Entity Partnership (KPBU) Policy in Regional Infrastructure Development

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Abstract. *This study analyzes the implementation of Public Private Partnership (PPP) policies in regional infrastructure development, emphasizing the legal framework, institutional governance, risk sharing, and public interest protection. While PPPs can expand financing options and leverage the expertise of private entities, they are not automatically more efficient than conventional procurement. The study shows that the success of the scheme is determined by project readiness, long-term fiscal viability, the quality of the feasibility study documents, a competitive partner selection process, risk sharing based on management capabilities, and the capacity of the Project Manager. At the regional level, key challenges include policy continuity, project preparation skills, cross-regional coordination, transparency of payment obligations, and community engagement. The regulatory analysis positions Presidential Regulation Number 38 of 2015 as the basic framework that needs to be read in conjunction with implementing provisions and relevant regional financial regulations. The article recommends strengthening regional PPP units, transparent long-term obligation budgeting, and output-based monitoring and service quality.*

Keywords: *Infrastructure; Law; Money; Region; Risk.*

1. Introduction

Regional infrastructure is a crucial prerequisite for equal economic opportunities, improved public service quality, and interregional connectivity. Roads, drinking water, sanitation, healthcare facilities, transportation, and digital networks impact logistics costs, citizen productivity, and investment attractiveness. However, local governments face extensive development needs, while fiscal space, spending capacity, and project management capabilities do not always match the magnitude of the needs. These limitations do not mean that private investment is always the answer, but rather encourage governments to assess infrastructure delivery strategies that can generate social and economic benefits at a reasonable life-cycle cost. In this context, PPPs (Public Private Partnerships) are a policy instrument that must be assessed based on service quality, risk sharing, and fiscal sustainability, rather than solely on the amount of private capital announced. Because

contracts can last for years, mistakes in the planning stage can impact public finances and service quality for the long term (Martinus P. Abednego & Stephen O. Ogunlana, 2026).

PPPs are transforming the way governments prepare and manage infrastructure delivery because the relationship between the parties extends beyond physical construction. Business entities can be involved in financing, design, construction, maintenance, or operation within the contractual framework, while the government remains responsible for ensuring public services are provided and meet standards. Because the objectives, information, and risk tolerance of governments and businesses can differ, projects require governance that clarifies who is responsible for which risks, how performance is measured, and how changing circumstances are handled. Studies of toll road projects in Indonesia highlight that differing perceptions of risk allocation can lead to disputes and undermine performance if strategic decisions, oversight, and project management are not integrated. Therefore, PPP policies need to be treated as a long-term governance system, not simply a technique for seeking additional funding. The government must maintain control over service standards, correction mechanisms, and the interests of the public as end users (Andreas Wibowo & Hans Wilhelm Alfen, 2014).

Indonesia's experience demonstrates that PPP implementation varies across sectors and regions. Drinking water infrastructure, for example, demonstrates the importance of local institutional capacity, bargaining power in contracts, and administrative preparedness before a project enters the transaction phase. The presence of a business entity will not automatically improve service quality if the partnership structure is unbalanced or if the local government lacks the capacity to monitor the partner's obligations. This lesson is relevant for projects in waste management, street lighting, markets, hospitals, transportation, and other social infrastructure. Each sector has its own unique demand characteristics, revenue sources, subsidy requirements, and operational risks. Therefore, replicating a successful model in one region should not be undertaken without feasibility testing and adaptation to local conditions. Effective policies require needs mapping, adequate demand data, analysis of government tariffs or payments, and clarity of project owner responsibilities before the business entity selection process begins (Bahtiar Rifai, 2014).

Conceptually, PPPs must be distinguished from full privatization. In PPPs, public service assets and authority are not automatically transferred permanently to a business entity; the relationship between the parties is governed by contracts and legal provisions for a specified period. This distinction is important because the term "partnership" can create the perception that service responsibilities can also be transferred to investors. However, the government's obligation to protect public access, maintain affordability, and ensure continuity of services remains intact. Studies of developing country experiences indicate that the impact of PPPs depends on institutional design, contract quality, oversight capacity, and the project's alignment with public needs. In a regional context, a contract model that is financially attractive to investors may not necessarily yield the best social benefits if project benefits are concentrated in a specific area, tariffs are too high, or service quality is difficult to monitor.

Therefore, policy analysis must examine not only the project's financial viability but also whether the partnership is the right choice (Michael Trebilcock & Michael Rosenstock, 2015).

Academic debate on PPPs emphasizes that assessing success cannot be simplified to on-time completion or under-budget construction. While partnership models can yield benefits by combining design, construction, and maintenance under a single contractual responsibility, they can also increase transaction costs, financing costs, contractual rigidities, or renegotiation risks. Assessments should consider the full project lifecycle, including costs for preparation, supervision, service payments, maintenance, and risks that may ultimately revert to the state. Local governments should compare PPP options with conventional public procurement using consistent assumptions, including the time value of money, demand projections, delay risks, and maintenance costs. Without adequate benchmarks, decisions to use PPPs can easily be driven by the perception that these schemes provide "off-budget" funding, even though payment obligations and contingent risks can still burden local fiscal resources (Graeme A. Hodge & Carsten Greve, 2007).

One of the key parameters in selecting a PPP scheme is value for money, namely whether the combination of costs, risks, quality, and social benefits provides better value than other options. Value for money is not simply the lowest price and cannot be determined solely by the amount of private investment. The government must assess output quality, service levels, lifecycle efficiency, business capacity, and transferred and retained risks. For local governments, this comparison requires data on operating costs, demand forecasts, affordability, design alternatives, and long-term payment consequences. If the baseline data cannot be accounted for, the results of feasibility studies and value for money calculations are also susceptible to bias. Therefore, benefit assessments need to be conducted before political and administrative decisions are made, and then updated when economic assumptions or project scope change. Transparency of assessment assumptions also helps the Regional People's Representative Council (DPRD), auditors, and the public examine the government's rationale for selecting a particular scheme (Ole Helby Petersen, 2019).

Beyond financial factors, the quality of institutions and governance influences a government's ability to attract credible partners. Regulatory certainty, administrative quality, corruption control, policy stability, and dispute resolution mechanisms shape perceptions of investment risk. For businesses, unclear authority, policy changes without contractual mechanisms, delays in decisions, or uncertainty about payments can increase the cost of capital and discourage tender participation. For the public, institutional weaknesses can create additional risks such as less transparent contracts, uneven service delivery, or oversight that prioritizes administrative compliance over performance. Therefore, building an investment climate does not mean granting privileges to investors, but rather creating clear rules, predictable processes, healthy competition, and fair contract enforcement. Local governments need to develop analytical and contractual capacity to become equal partners while maintaining a public service orientation (Aparajita Gupta & Anil Kumar Sharma, 2023).

A literature review of PPPs in Indonesia shows that research is developing on the themes of risk, project implementation, and build-operate-transfer schemes, while several issues such as accounting, taxation, and social impact still require development. This gap becomes crucial when policy implementation is at the regional level, as project decisions are directly linked to the regional budget (APBD), user groups, spatial planning, the environment, and benefit distribution. This article attempts to connect three layers of analysis: policy design, implementation governance, and the legal framework governing the authorities and obligations of the parties. The key questions are how PPP policies are implemented in regional infrastructure development, what factors influence their success, and how laws and regulations shape both the space and limits of local government action. The article's contribution lies in emphasizing that legal certainty must go hand in hand with fiscal capacity, transparency, and evaluation of service outcomes. With this approach, the discussion does not position PPPs as an end in itself, but rather as an instrument whose feasibility and public benefits must be demonstrated (Vera Mandasari & Ersu Tri Wahjyuni, 2019).

2. Research Methods

This research employs a normative juridical method with a statutory, conceptual, and public policy approach. Primary legal materials include regulations governing PPPs, regional government, regional cooperation, regional financial management, and business entity procurement; while secondary materials include scientific journal articles with DOIs that can be searched through publisher pages or academic indexes, as well as relevant studies on governance, risk, and value for money. The search was conducted thematically based on the terms PPP, public-private partnership, regional infrastructure, risk allocation, accountability, and regional government readiness. The collected materials were analyzed qualitatively through a norm inventory, systematic interpretation, comparison of literature findings, and prescriptive conclusions. This research does not claim to produce new field data or statistical estimates; the results are a synthesis of doctrinal and secondary literature (Robert Osei-Kyei & Albert PC Chan, 2015). This limitation means that the conclusions are used to develop an evaluation framework and policy recommendations, not to assert that all regional PPP projects have uniform outcomes. The literature selection was also directed at integrating review studies with sectoral research, so that success factors are not derived from a single project type.

3. Results and Discussion

3.1. Implementation of PPP Policy in Regional Infrastructure Development

PPP implementation should begin with identifying public service issues and ensuring the project's compliance with regional planning documents. The selected infrastructure should address measurable needs, align with the regional medium-term development plan, and provide benefits that can be explained to the public. Once needs are defined, the government should conduct a preliminary study and a feasibility study that examines technical, economic,

legal, environmental, social, institutional, and commercial aspects. Feasibility is not merely about demonstrating the likelihood of a return for investors, but rather ensuring that the PPP form is more suitable than other procurement options. Experience with geothermal energy projects in Indonesia demonstrates that risk allocation should reflect the nature of the risks and the parties' relative ability to manage them. Risks related to regulation, construction, exploration, financing, demand, operations, and maintenance should not be transferred uniformly. If the government transfers risks that the business entity cannot control, bid prices may increase or market interest may decrease. Conversely, the government should not assume operational risks that can be better managed by the partner (Suardi Nur et al., 2023).

The next step is to design project governance to ensure public accountability remains clear throughout the contract period. The government needs to establish responsible officials, a cross-regional team, decision-making channels, reporting mechanisms, and procedures for handling design or service changes. PPPs are both a contractual and an accountability relationship: the private sector undertakes certain obligations, but the government remains accountable for achieving public objectives. This includes establishing output indicators, service quality, facility availability, response times to disruptions, and sanctions for non-compliance. Accountability measures must be understandable and verifiable to citizens, not limited to reports read only by project officials. The contract should also clarify how operational data is communicated, how audits are conducted, and how the public can file complaints. If the authority of the government and the private sector is blurred, service failures can be blamed on one another, leaving no solution for users. Therefore, a clear division of responsibilities is a core element of PPP design, not an additional administrative matter (John Forrer et al., 2010).

Competitive partner selection is a prerequisite for achieving efficient solutions and preventing decisions that are driven by vested interests. Procurement documents should transparently outline the desired outputs, eligibility criteria for participants, evaluation methods, technical and financial weighting, and the rationale for decisions. Procurements that only assess the initial price may overlook operational competency, funding capacity, consortium strength, and maintenance plans, all of which impact project lifetime costs. Conversely, overly vague criteria can reduce competition and increase discretionary opportunities. The literature on PPP success factors places the quality of the procurement process, project implementation capability, proportional guarantees, financing conditions, and the availability of capital markets as key factors. Local governments can implement this principle by providing the same project data to all participants, announcing realistic schedules, maintaining the independence of evaluators, and documenting all stages of the decision process. If direct appointment is authorized by regulations, the rationale for its use should still be documented and rigorously tested (Bing Li et al., 2005).

Studies on port infrastructure projects highlight that partnership success is influenced by the accuracy of concession agreements, risk allocation, technical feasibility, partner commitment, financing design, clarity of responsibilities, and a realistic cost-benefit analysis. While the

sector context differs, these factors are relevant for regional projects because long-term contracts face uncertain demand, technological changes, economic conditions, and changing citizen needs (Geoffrey Aerts et al., 2014). In developing PPP documents, the government needs to define measurable service outputs, establish auditable payment or revenue mechanisms, regulate asset maintenance, and agree on contract change procedures. Overly general agreements shift conflict to the implementation phase, when the costs of change have already increased. However, overly rigid contracts can also hinder adaptation to new needs. Therefore, a balance is achieved through understandable risk allocation, limited and transparent renegotiation mechanisms, provisions for handling force majeure, and protection for service users.

Cross-country comparisons highlight that PPP success factors are not fully transferable from one context to another. Institutional capacity, market conditions, financing structures, regulatory certainty, and contractual experience vary across regions and countries. Therefore, local governments cannot simply replicate successful project models; they must first analyze whether user revenues, fiscal capacity, risk structures, and service demand are appropriate to local circumstances. For example, a project relying on user fees may be feasible for services with a large user base, but less appropriate for social facilities that must remain affordable for low-income groups (Jinkook Yang et al., 2024). On the other hand, availability payments can help separate payments from usage volume, but require long-term budget commitment and the ability to monitor service quality. Failure to adapt this structure could potentially result in an unbalanced payment burden or services that fail to meet equity goals. Therefore, local context should inform model selection, not simply a post-contract consideration.

PPP success factors are interconnected, so improving one element won't necessarily result in a successful project if others are weak. For example, investors with strong technical skills can still encounter problems if permits are uncertain, land isn't ready, or demand data is unreliable. A comprehensive contract also doesn't guarantee results if the managing official lacks the competence to oversee implementation and enforce service standards. A systems approach is needed to understand the interconnectedness of government commitment, project characteristics, financing, the collaborative environment, community involvement, and business entity capacity. In practice, local governments should use a readiness checklist that links land status, environmental approvals, cross-agency support, budget availability, document readiness, and risk management strategies (Shiying Shi et al., 2016). This checklist is not simply a formal requirement for a project to be announced, but rather a tool for halting or correcting any incomplete plans. Regularly testing the interconnectedness of these factors helps reduce transaction costs and prevents projects from entering the market before the essential prerequisites are met.

A value-for-money assessment should compare PPP procurement with realistic alternatives throughout the life cycle, not just construction costs or initial budget requirements. Calculations should include preparation costs, supervision, private financing, operations and maintenance costs, government payment obligations, risk assessments, and the impact if

demand falls below projections. A scheme that appears less expensive for the current budget may still be more expensive in the long run if payment obligations are not clearly documented or if public guarantees are provided without measuring the fiscal exposure. Therefore, a risk-benefit analysis should explain assumptions, sensitivities, revenue decline scenarios, and the distribution of liabilities in the event of extraordinary events (Darrin Grimsey & Mervyn K. Lewis, 2002). Local governments also need to evaluate whether potential private sector efficiencies can be achieved through conventional procurement at lower costs. A strong PPP decision is one that remains justifiable after all costs and risks are transparently disclosed, not one chosen simply because it makes the financing requirement appear to be a budget-friendly investment.

Government oversight of service quality should continue after the contract is effective and the facility is constructed. The government should have a contract management unit with technical, financial, legal, and service evaluation competencies; if internal capacity is limited, expert assistance can be used without shifting responsibility for public decisions. Performance data should be reviewed periodically through document audits, field inspections, availability measurements, compliance checks, and user satisfaction surveys (Avin S. Chourasia et al., 2021). Monitoring results should be linked to payments, deductions, sanctions, repair obligations, or corrective actions as stipulated in the agreement. Community engagement also serves as an early detection mechanism for non-functioning facilities, inequitable access, or unaccounted for environmental impacts. Research findings on airport PPPs demonstrate the importance of government oversight and user engagement in maintaining service quality and usability. Therefore, monitoring does not end with the handover of construction; the most important measure is whether services are provided reliably, affordably, and in accordance with the original objectives throughout the partnership period.

3.2. Legislative Framework and Strengthening of Regional PPPs

The primary legal framework for infrastructure provision through PPPs is contained in Presidential Regulation No. 38 of 2015 concerning Government Cooperation with Business Entities in Infrastructure Provision. This regulation defines PPPs as cooperation for the public interest that refers to specifications set by the government and utilizes some or all of a business entity's resources with attention to risk sharing. The objectives include meeting sustainable funding needs, infrastructure quality, efficiency, targeted accuracy, a healthy investment climate, and investment return mechanisms as regulated. The principles of partnership, benefit, competition, risk control, effectiveness, and efficiency provide benchmarks for assessing implementation (Asenar et al., 2024). This framework means that PPP selection must not only meet project targets but also align with the public interest. Risk allocation arrangements and legal changes within the agreement become increasingly important because infrastructure contracts are long-term and subject to changing circumstances. Therefore, the principle of legal certainty must go hand in hand with transparently regulated adaptability.

The implementing regulation that needs to be considered is Regulation of the Minister of National Development Planning/Head of Bappenas Number 7 of 2023 concerning the Implementation of Cooperation between the Government and Business Entities in Infrastructure Provision, which has been amended by Regulation of the Minister of National Development Planning/Head of Bappenas Number 9 of 2025. This provision serves as an operational guideline for the planning, preparation, transaction, implementation, and other aspects of PPP procedures. Regional governments need to review the consolidated draft and the revised provisions before commencing project preparation to ensure that the documents, schedules, division of authority, and procedures used comply with applicable provisions. Regional government readiness is determined not only by the presence or absence of regulations, but also by the ability to organize processes according to the rules, provide necessary data, identify risks, and build inter-agency coordination. Studies on availability payment readiness in regions demonstrate the importance of government maturity, social policy frameworks, institutional capacity, the legal environment, and project delivery capabilities. Therefore, harmonization of norms needs to be accompanied by strengthening the organization and work procedures within regional governments (Henro Nababan, 2024).

In terms of procurement, Government Goods/Services Procurement Policy Agency Regulation No. 1 of 2025 regulates procurement procedures for PPPs in infrastructure provision. These provisions are crucial because the procurement stage determines who is selected as a partner, how the competition is conducted, and how accountable the government's decisions are. Regional governments should no longer rely on LKPP Regulation No. 29 of 2018 as the sole reference, as the old provision has been revoked by the 2025 regulation. Regulatory updates should translate into updates to selection documents, evaluation guidelines, procurement procedures for preparatory bodies, and the capacity of officials handling projects. Beyond procedural compliance, PPP contracts need to be read from a public law perspective: government authority, transparency obligations, public service, and welfare objectives do not disappear when the government contracts with private parties. The principle of good faith must therefore be applied throughout the project cycle, including when circumstances change, disputes arise, or the need for renegotiation (Isdian Anggraeny et al., 2026).

The relationship between PPPs and regional government authority needs to be read in conjunction with Law Number 23 of 2014 concerning Regional Government and its amendments, and Government Regulation Number 28 of 2018 concerning Regional Cooperation. Both instruments provide context for the division of government affairs and regional cooperation, while project feasibility must remain aligned with applicable sectoral authorities. Regional governments cannot establish PPP schemes to circumvent competency boundaries, service obligations, or budgeting procedures. If a project involves multiple levels of government or multiple sectors, the division of responsibilities, land acquisition, financing, permits, and oversight must be agreed upon before the transaction takes place. Ethical challenges arise when investment needs are perceived as prioritizing public access, consumer

protection, and the distribution of benefits. An ethical framework is needed to assess whether project choices are justified in terms of objectives, beneficiaries, and social consequences. Thus, regional authority and cross-stakeholder cooperation should serve to clarify accountability, not create administrative layers that further obscure public responsibility (Lutfah Ariana, 2024).

Availability payments are a relevant investment repayment mechanism for regional infrastructure when direct revenue from users is insufficient or inconsistent with service objectives. Minister of Home Affairs Regulation No. 96 of 2016 regulates availability payments in partnerships between local governments and business entities for the provision of infrastructure in the region. Under this mechanism, periodic payments are contingent on service availability according to contractual quality or criteria, requiring the government to have robust performance verification methods. Before using this scheme, local governments must ensure that payment commitments are accountable through budgeting, fiscal projections, and interannual liability management. The payment structure should be linked to measurable indicators, a mechanism for reducing payments if services do not meet standards, and documented audit procedures. The advantage of this scheme is that it provides incentives to maintain facilities throughout the contract period, but it also carries significant fiscal risks if service standards are lax, cost estimates are unrealistic, or the government lacks discipline in monitoring agreed obligations (Kennywan Leo Arischa et al., 2024).

Regional PPPs are also linked to public finance regulations, particularly Law No. 17 of 2003 concerning State Finance, Law No. 1 of 2004 concerning State Treasury, and Government Regulation No. 12 of 2019 concerning Regional Financial Management. This financial framework requires that payment obligations, government support, guarantees, and fiscal risks not be treated as invisible costs. Long-term contractual commitments need to be incorporated into fiscal planning so they do not suppress mandatory spending or limit the government's ability to meet other service needs. At the regional level, documentation of obligations must be understandable to budget managers, the Regional People's Representative Council (DPRD), auditors, and the public (Pranab Bardhan & Dilip Mookherjee, 2006). Experience from studies on decentralization reminds us that closer local governments to citizens can improve responsiveness to local needs, but also carries the risk of decision-making being controlled by vested interest groups. To mitigate this risk, project decisions must be accompanied by adequate cost and benefit information, legislative oversight, complaint mechanisms, and verifiable accountability based on documentation and service delivery outcomes.

PPP contracts are the primary tool for translating legal obligations into operational responsibilities. Contracts should specify the scope of services, performance standards, construction phases, financing, payment, risk allocation, land acquisition, regulatory changes, force majeure, monitoring, dispute resolution, termination, and asset recovery. Provisions for legal changes are important because new regulations or policies can impact costs and service

continuity. Risk allocation should be structured based on the principle that risks are managed by the party best able to prevent, mitigate, or absorb their impact, while still considering fiscal capacity and the public interest. The quality of institutions and ease of contract enforcement are also related to a project's attractiveness to competent bidders. Contracts that contain ambiguities or provide unlimited guarantees can invite disputes, renegotiations, or shifting burdens to the public (Photis M. Panayides et al., 2015). Therefore, legal and commercial audits must be conducted in a balanced manner, involve appropriate expertise, and be recorded as part of project governance.

Public accountability must be established from the start of a project, not after citizen objections or service failures arise. Local governments should disclose proportionate information about the rationale for selecting a PPP, a summary of the feasibility study, benefit indicators, the business entity selection process, fiscal commitments, service standards, and partner performance. Confidential information can still be legally protected, but disclosure exemptions should not be used to conceal public costs or justify decisions. Consultation with communities helps map needs, impacts on tariffs and access, potential land issues, and social and environmental consequences. Community engagement is not a substitute for technical studies or legitimate decisions, but rather provides input to strengthen legitimacy and detect issues not apparent in initial documentation (Okotie William, 2026). The literature on local government-private sector collaboration highlights the importance of coordination, managing obstacles, and joint monitoring. This mechanism promotes transparency beyond simply publishing documents, providing a way for citizens to understand commitments, raise complaints, and receive accountable responses. Policy evaluations should measure changes in service quality, beneficiary reach, efficiency, fiscal sustainability, and user satisfaction, rather than solely the value of signed investments. PPPs should be selectively implemented based on evidence, through an inventory of updated regulations, strengthening management capacity, implementing readiness checklists, and documenting risks throughout the project cycle.

4. Conclusion

The implementation of PPP policies in regional infrastructure development is best understood as a long-term governance option that requires rigorous assessment of public benefits and fiscal risks. These schemes can help pool financing, combine technical expertise, and strengthen maintenance incentives, but these benefits are not automatic. Outcomes depend on project readiness, competitive partner selection, clear contracts, reasonable risk sharing, management capacity, and consistent performance monitoring. Governments should avoid assuming that every project can or should use PPPs. Assessments should compare PPP options with conventional alternatives, account for the full lifecycle costs of the project, and transparently disclose payment obligations and contingent risks. Without fiscal transparency, projects can appear inexpensive initially but actually incur higher costs or obligations that limit other services. The principle of value for money is only meaningful if the underlying assumptions can be traced, tested, and explained to decision-makers and citizens.

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- Regulation of the Minister of Home Affairs Number 96 of 2016 concerning Payment for Service Availability in the Framework of Cooperation between Regional Governments and Business Entities in the Provision of Infrastructure in the Regions. [Official link](#)
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- Government Regulation Number 12 of 2019 concerning Regional Financial Management. [Official link](#)
- Government Regulation Number 28 of 2018 concerning Regional Cooperation. [Official link](#)
- Presidential Regulation Number 38 of 2015 concerning Cooperation between the Government and Business Entities in the Provision of Infrastructure. [Official link](#)
- Law Number 1 of 2004 concerning State Treasury. [Official link](#)
- Law Number 17 of 2003 concerning State Finance. [Official link](#)
- Law Number 23 of 2014 concerning Regional Government and it's a me