

Implementation Challenges in SAI-India with regard to compliance auditing

Issue presented: **Compliance audit of public-private partnership projects**

1 Background

Governments in India (both the Union and Provincial Governments) are increasingly resorting to use of Public-Private-Partnerships (PPP) for creation of assets and delivery of services. These are predominantly being used for development of infrastructure like construction and maintenance of highways/ expressways/ bridges, airports, seaports, electricity generation and distribution projects, metro-rail projects, IT infrastructure backbone network and IT common service centres/ kiosks, tourism projects, irrigation projects etc. There have also been innovative use of PPP approaches in social sector like provision of education and health related services, water supply and sanitation services etc. In addition, approaches akin to PPP – with risk and revenue sharing models between the public and private partners - have also been adopted in other sectors such as telecommunications, oil and gas exploration and production etc.

Given the infrastructure deficit in the country, it is envisaged that the role of PPPs will increase with time in these sectors. Further, substantial amount of public funds and assets are utilised by private players in executing these projects. Hence, this is a critical area of focus for SAI-India – both for current as well as future audits.

2 Audit Approach

Many of the large PPP projects, which have been identified as high risk during the SAI's audit planning process, have been subjected to performance audits in a phased manner. These audits have largely been focused on the preparatory activities of the projects like planning and design, and tendering and contracting processes.

The other key area of audit focus is the compliance audit of these PPP projects over their tenure, which generally ranges upto 20 to 30 years. The major areas of focus for compliance audit with regard to PPP projects involve the following:

- i. **Risk assessment** – risks in estimating the revenue streams of projects implemented in PPP mode impact the finances of government significantly and can alter the expectations of citizens at large.
- ii. **Revenue sharing** – ascertaining that the share of revenue due to Government has been collected and remitted in a timely manner, and associated controls (*viz.* preparation and maintenance of relevant accounting records, maintenance of escrow account – where stipulated, correct calculation of Government's share of revenue/ profit etc.) are adequate and functioning effectively.
- iii. **Provision of stipulated level of service** – verifying that the level of service stipulated in the PPP contracts are being maintained consistently, and that there are adequate and effective mechanisms for monitoring of service levels.

- iv. **Compliance with other contractual provisions** – especially those which are likely to have a direct and material effect on revenue sharing or service levels.

Key Implementation Challenges

3 Availability of Requisite Skilled Resources

Audit of PPP arrangements requires substantial upgradation of audit skills. While SAI-India has been able to ensure availability of adequately skilled audit resources for performance audits of major PPP projects, which are essentially one-off audits, compliance audits on a periodic basis (at a frequency appropriate for facilitating timely corrective action on audit findings) of these PPP projects presents a major challenge, simply because of the increasing number of PPP projects with huge timeframes. This is being tackled on an ongoing basis through training and skill upgradation, but this will obviously take time.

4 Access to Records

At the stage of planning and design, as well as tendering and contracting, most of the relevant documents are available with the public sector partner, and consequently, SAI-India faces no significant problem of audit access.

However, after the signing of the contracts, the records relating to both project execution and service provision are largely generated/ maintained by the private partner. Access to records/ documentation is sometimes not clearly specified in the PPP contracts, or, more often, not adequate for the SAI to verify contractual compliance. Often, the records stipulated in the PPP arrangements need to be supplemented by subsidiary records (to be provided by the private partner), in order to demonstrate that the revenue sharing/ cost allocation arrangement, where applicable, is working effectively.

In situations of inadequate audit access, the SAI generally approaches the public partner, which is generally a member of the Board of the PPP Joint Venture, for facilitating audit access. This is often time-consuming and not always successful.

5 Inadequate monitoring of PPP contracts

The situation is compounded by the fact that Governments/ public entities often tend to allocate inadequate resources to monitoring/ supervision of already signed PPP contracts, preferring to focus more on design and award of new contracts. In such situations, while the SAI is able to demonstrate inadequate monitoring by the public partner, it is often unable – in the absence of relevant documentation – to demonstrate whether such inadequate monitoring has indeed resulted in loss of revenue or failure to provide the stipulated levels of service (which are often the primary areas of interest of our stakeholders, as opposed to “mere” inadequacies in monitoring).

6 For discussion

- i. What has been the experience of other SAIs in carrying out compliance audit of PPP ventures?
- ii. How were the issues listed above tackled in other SAIs where PPP ventures have been in existence for longer periods?