

## Why not regulate PPPs?

### ***Access to new resource related to public private partnerships added to PMWL***



Resource provided by [Diana Serikbay](#)

16 March 2022 – Almaty, Kazakhstan – Access to a new resource has been added to the PM World Library (PMWL) related to Public Private Partnerships. The new resource is titled “Why not regulate PPPs?” and is a paper by Rui Cunha Marques published by Elsevier in 2017.

This article raises the issue of regulation of PPP contracts. After a brief introduction, authors discuss market failures in the infrastructure sector and the corresponding contract failures in the absence of regulation. Next, they raise the question of the need for PPP contract management, while in the next section argues that contract management is not enough. In the end of the article authors present some empirical examples from two different countries.

This article mentions that contracts often remain unfinished. The main reason is the lack of active participation of the public side. The author suggests that having a contract management manual with conditions helps maintain the public interest and professional, healthy relationships between PPP players. In regulation, the contract manager seeks to honor the contract, and is also an observer and has the right to resolve certain situations. But there is one point that needs to be taken into account, the contract manager in litigation or in the event of a conflict represents the public side, he is limited by whatever decision. Accordingly, the contract manager is dependent and not a neutral party, and it cannot replace regulation.

The author proposes to consider and take into account the intervention of the state to resolve conflicts, the market and include PPP in the infrastructure. In this case, the neutrality and authority of the state, i.e. the regulatory body, is ensured. Further, the author, using the example of two countries, shows cases in the road sector with a negative outcome. The second case is in Brazil, also in the road sector. The reason for the failure is the lack of a regulatory body. These examples highlight the lack of regulation that led to the loss of negotiating ability and brought on a lot of risk. The authors argue that with an independent regulator, some conflicts could be avoided, negotiations could be peaceful, and productivity could be improved through benchmarking.

As far as game theory is concerned, the authors consider the existence of a regulated PPP as a positive-sum game, and this in turn is a prerequisite for a successful outcome.

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## PMWL Research Result

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### For PMWL Post

Marques, R.C. (2017). "Why not regulate PPPs?," Elsevier, vol. 48(C), pages 141-146. Available online at (<https://fardapaper.ir/mohavaha/uploads/2019/09/Fardapaper-Why-not-regulate-PPPs.pdf>) ([Serikbay](#))

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