Lecture : 06
Introduction

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1. Introduction

Lecture Outlines

- Definitions of different terminologies
- Public Private Partnership (PPP)
  - Overview
  - Definitions
  - Essential and Other Common Features of PPP
- Privatization
  - Difference between privatization and PPP
- Procurement Options
  - Infrastructure Procurement Options that are Not Regarded as PPPs
  - Infrastructure Procurement Options that may be Regarded as PPPs
- Procurement Options Private Participation

1. Terminologies

1.2. Definitions:

Commercial Feasibility	Analysis conducted to check whether the project will effectively attract quality bidders, investors, and lenders, as well as highlight the main conditions that must be met to do so.
Equity	The portion of the share capital and other investment subordinated to senior debt provided by members of the special purpose vehicle (SPV)
Senior Debt	The main form of debt raised by the private partner, which is senior to other unsecured or otherwise more "junior" debt, that is, the senior debt generally has first priority for repayment, and the lenders of the senior debt have decision-making powers in priority to the lenders of the junior debt.
Risk	An uncertain event which, if it occurs, may cause actual project outcomes to differ from expected outcomes.

1. Terminologies

1.3. Definitions:

Term	Definition
Viability Gap Fund (VGF)	A scheme wherein the projects with low financial viability are given grants (or other financial support from the government) up to a stipulated percentage of the project cost, making them financially viable as PPPs. The bidder who bids for a project with the least amount of financial support from the government is generally awarded the project
User Pays PPP	A PPP project in which the revenues for the private partner are based on user-payments (for example, tolls for a road)
Lender	Institutions that provide lending to the project: mainly banks and institutional investors through project bonds
Hand-Back	The transfer of the project assets, and responsibility for those assets, to the government upon the termination or expiry of the PPP contract.

1. Terminologies

1.4. Definitions:

PPP framework	The rules, established procedures, and institutional responsibilities that determine how the government selects, implements, and manages PPP projects
Articles of Association	The document that sets out the purpose of the special purpose vehicle (SPV) and the rules governing how the SPV's office holders will run it.
Concession	A grant of economic rights of a public asset in an administrative law jurisdiction to a private party by the government, including the legal title to possess the site of the land. It may also refer to a PPP contract that is generally reserved for contracts where the majority of revenue comes from users.

1. Terminologies

1.5. Definitions:

Affermage

A French term used to refer to a form of PPP in which the private partner is responsible for operating and maintaining existing infrastructure, but not for financing the investment. The private partner does not receive a fixed fee for its services. Rather, it retains part of the user charges with a portion of the receipts going to the procuring authority as owner of the assets. The payment to the procuring authority is a percentage of the receipts or a percentage of the total units of service provided.

Lease

The A legal institution (similar to a concession and used in a number of common law countries) that allows the government to grant economic rights over the infrastructure or economic ownership of the asset. In some countries, the term "lease" may be reserved for project contracts where the government remains responsible for capital expenditures.

1. Terminologies

1.6. Definitions:

Commercial Close

A The point at which all the significant commercial issues between the procuring authority and the consortium have been agreed. The PPP contract (or PPP project agreement) will normally be signed at commercial close. Sometimes, even if the PPP contract has been signed, the majority of its provisions will not become effective until financial close has been reached.

Financial Close

A The point at which all of the project documentation is signed, all the pre-conditions attached to the project's financing have been met, and the project funding becomes available.

Project finance

A technique to negotiate and establish the long-term debt financing of a project, where the basis of the loan is the cash flow generated by the project alone.

1. Terminologies

1.6. Definitions:

Special Purpose Vehicle (SPV)

A An entity created to undertake a single task or project in order to protect the shareholders with limited liability, often used for limited or non-recourse financing. In establishing a project consortium, the sponsor or sponsors typically establish a private partner in the form of a special purpose vehicle (SPV) which contracts with the government.

The SPV is an entity created to act as the legal manifestation of a project consortium with no historical financial or operating record which the government can assess.

An SPV/special purpose entity (SPE) is a legal entity with no activity other than those connected with the project.

It also includes “private partner” or “project company”.

User Pays PPP

A PPP project in which the revenues for the private partner are based on user-payments (for example, tolls for a road)

2. Public Private Partnership (PPP)

2.1. Overview:

- PPPs are a contractual means to deliver public assets and public services.
- PPP contracts include those intended to develop and manage new infrastructure, contracts to undertake significant upgrades to existing infrastructure (these are called infrastructure PPPs), and those under which a private partner manages existing infrastructure or only provides or operates public services (known as service PPPs).
- There is no universally accepted definition for the PPP concept.
- In fact, the term PPP is sometimes used to mean any form of association or co-operation between the *public* and *private* sectors for the purpose of reaching a common goal.
- In the specific field of procurement and delivery of public infrastructure and services, there is also a large variety of definitions

3. Public Private Partnership (PPP)

3.1. Definitions (OECD):

- The Organization for Economic Co-operation and Development (OECD) defines a PPP as an agreement between the government and one or more private partners (which may include the operators and the financers). Within the agreement, the private partners deliver the service so that the service delivery objectives of the government are aligned with the profit objectives of the private partners. Furthermore, the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners

3. Public Private Partnership (PPP)

3.2. Definitions (IMF):

- According to the International Monetary Fund (IMF), PPPs refer to arrangements in which the private sector supplies infrastructure assets and services that traditionally have been provided by the government. In addition to private execution and financing of public investment, PPPs have two other important characteristics: an emphasis on service provision and investment by the private sector. In this way, ***significant risk is transferred from the government to the private sector***

3.3. Definitions (EC):

- According For the European Commission (EC), the term Public-Private Partnership is not defined at the community level. In general, the term refers to forms of cooperation between public authorities and the world of business which aim to ensure the funding, construction, renovation, management and maintenance of infrastructure for the provision of a service.

3. Public Private Partnership (PPP)

3.4. Broad Definitions:

- Based on the definition provided by the Public-Private Partnerships Reference Guide, V 2.0 (World Bank 2014), as a broad concept to be applied both to new or existing infrastructure and services, a PPP may be defined as
- "A long-term contract between a public party and a private party , for the development and/or management of a public asset or service, in which the private agent bears significant risk and management responsibility through the life of the contract, and remuneration is significantly linked to performance, and/or the demand or use of the asset or service".

3. Public Private Partnership (PPP)

3.5. Narrow Definitions:

- Therefore, this chapter will also propose a narrower definition of PPPs, specifically as an option to procure new or upgrade existing infrastructure on the basis of private capital resources. For convenience, this PPP Guide will refer to these PPPs as *private finance PPPs or simply as PPPs*.
- "A long term contract between a public party and a private party for the development (or significant upgrade or renovation) and management of a public asset (including potentially the management of a related public service), in which the private party bears significant risk and management responsibility throughout the life of the contract, provides a significant portion of the finance at its own risk, and remuneration is significantly linked to performance and/or the demand or use of the asset or service so as to align the interests of both parties"

3. Public Private Partnership (PPP)

3.6. Essential and Other Common Features of PPP:

Summary of Essential and Other Common Features of a Private Finance PPP	
Essential features	**Other common features**
• There is a long-term public contract between public and private parties. • The construction and long-term management of the asset are bundled together in the one contract. • There is significant risk transferred to the private sector over a significant part of the life cycle of the asset. • There is significant private finance at risk. • The private partner's remuneration is linked to, and at risk of, performance and/or demand benchmarks (alignment of interests).	• The private party is usually constituted as an SPV. • Financing raised by the private party is usually in the form of "project finance". • Revenues are earned by the private party only (or mainly) when the asset is completed and ready to be used. • Consistent with the performance focus of remuneration to the private partner, technical and service requirements are also focused on results or "output specifications", rather than on inputs. • The requirements also leave room for innovation

4. Privatization

4.1. Difference between privatization and PPP:

- There is often confusion between privatization and PPPs.
- There is however a clear difference between these two forms of private sector engagement.
- In its true sense, **privatization** involves the **permanent transfer to the private sector** of a previously publicly-owned asset and the responsibility for delivering a service to the end user.
- However, a PPP necessarily **involves a continuing role for the public sector as a "partner**" in an ongoing relationship with the private sector (World Bank Farquharson, Torres de Mästle, and Yescombe, with Encinas 2011).

4. Privatization

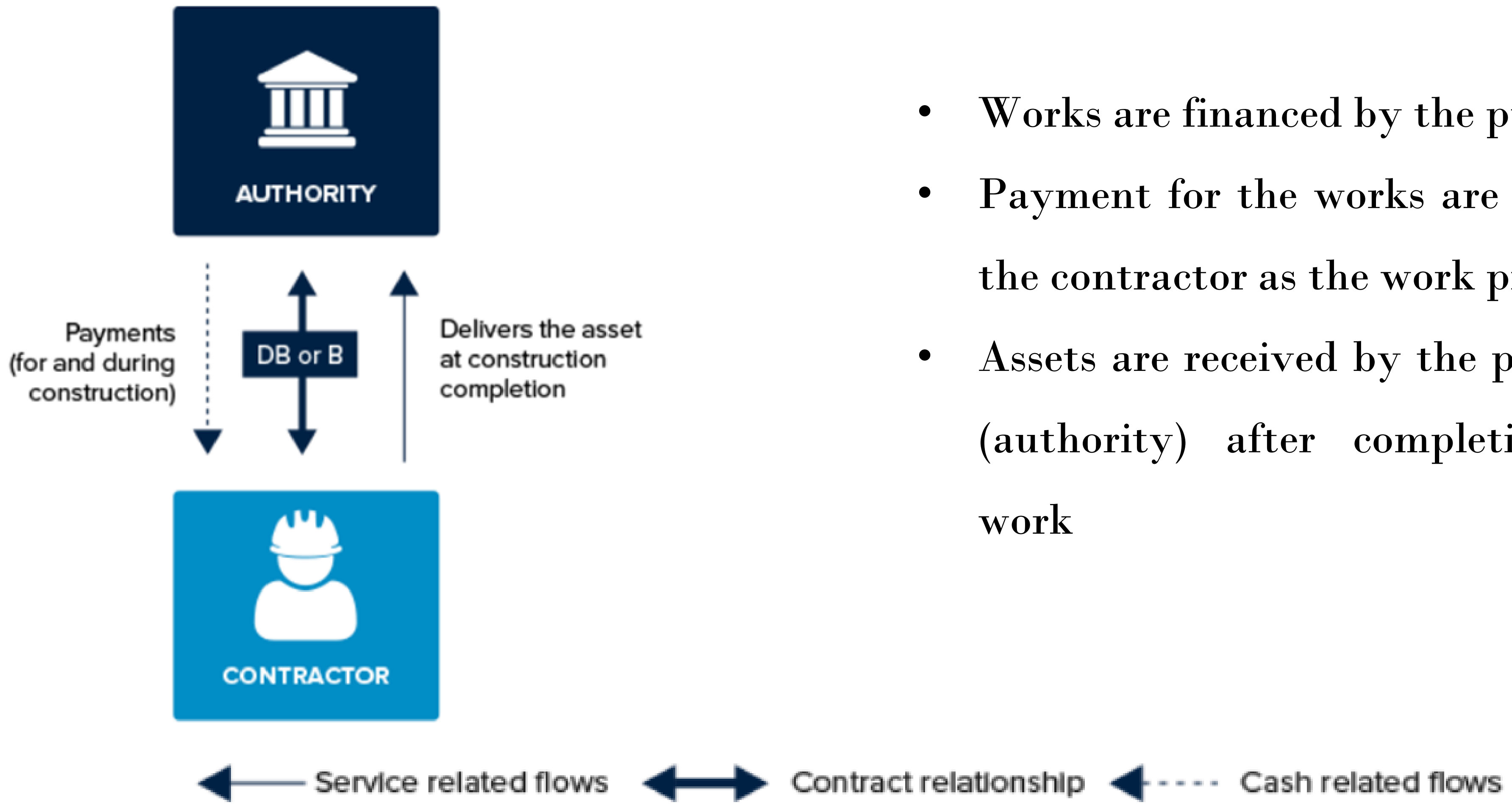
4.1. Privatization verses PPP:

Privatization	PPP
• The private sector owns the full property of the asset	• Normally the legal owner of the asset is the government and the asset has to be handed back when the contract expires
• There is no contract in strict terms, but authorizations and conditions are set in the regulation of the respective market sector.	• There is a detailed contract specifically ruling the rights and obligations of each party.
• Time to operate the asset is unlimited.	• Time is limited by contract.
• Privatization involves no strict alignment of objectives since it usually means that the government is not involved in the output specification of the privatized entity. It is of course the private providers that set the quality and quantity of the goods delivered, while they also specify the design and set the price (possibly after negotiating with their clients). (OECD 2008).	• The government specifies in detail both the quantity and quality of the service that it requires
• The privatized entity will have much more liberty to set the price to be charged to users.	• The company will receive the agreed price for the service (government-pays) or user charges (in user-pays PPPs) which will be defined by government or agreed by the contract with no or very limited flexibility.

5. Procurement Options

5.1. Infrastructure Procurement Options that are Not Regarded as PPPs:

FIGURE 1.2: Basic Scheme of a Design-Build or Build-Contract

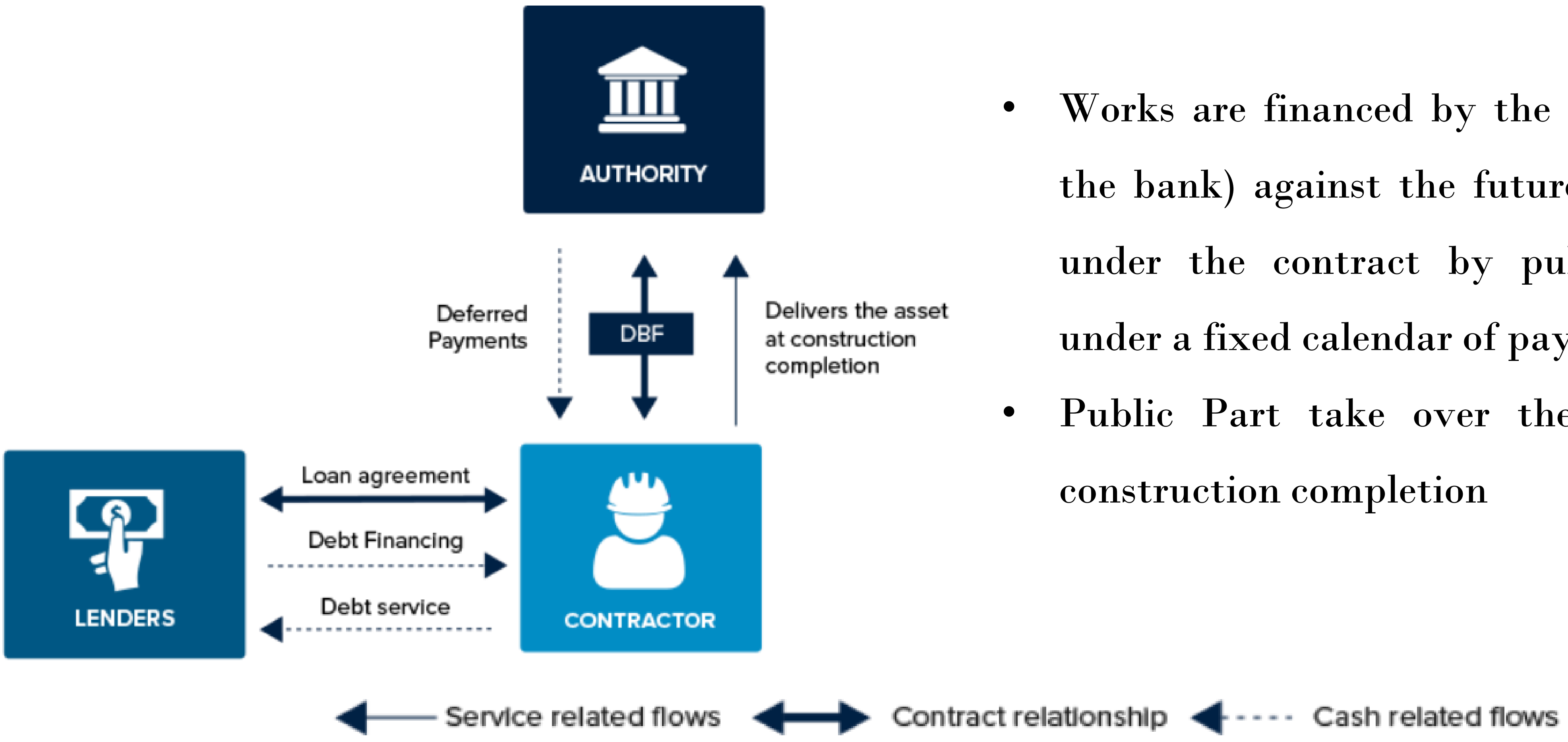


- Works are financed by the public sector
- Payment for the works are received by the contractor as the work progresses
- Assets are received by the public sector (authority) after completion of the work

5. Procurement Options

5.2. Infrastructure Procurement Options that are Not Regarded as PPPs:

FIGURE 1.3: Basic Scheme of a Design, Build and Finance (DBF) Structure

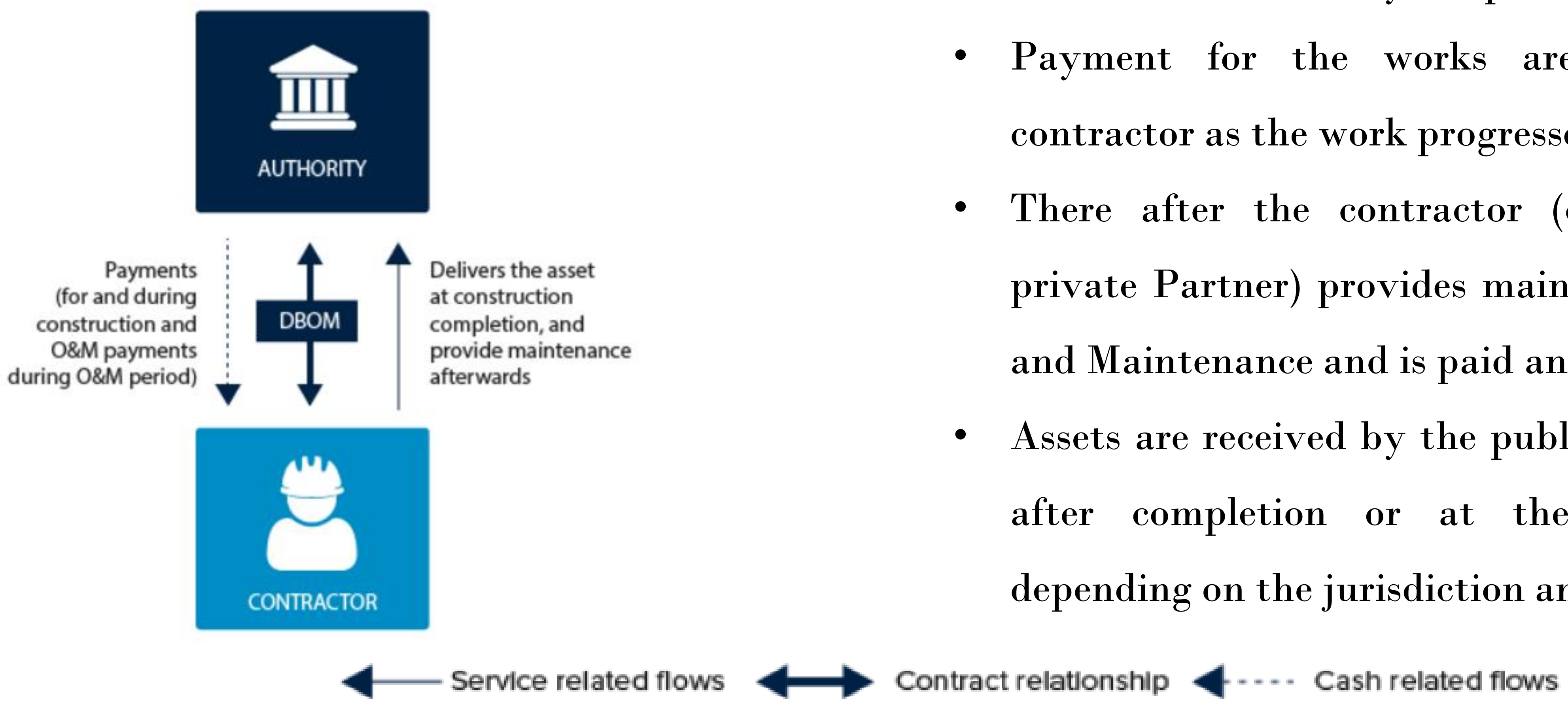


- Works are financed by the contractor (usually the bank) against the future payment granted under the contract by public party usually under a fixed calendar of payment
- Public Part take over the infrastructure at construction completion

5. Procurement Options

5.3. Infrastructure Procurement Options that may be Regarded as PPPs:

FIGURE 1.4: Basic Scheme of a Design, Build, Operate and Maintain (DBOM) Structure



- Works are financed by the public sector
- Payment for the works are received by the contractor as the work progresses
- There after the contractor (consider here as a private Partner) provides maintenance (or Operate and Maintenance and is paid an O & M price for it
- Assets are received by the public sector (authority) after completion or at the end of contract depending on the jurisdiction and project

5. Procurement Options

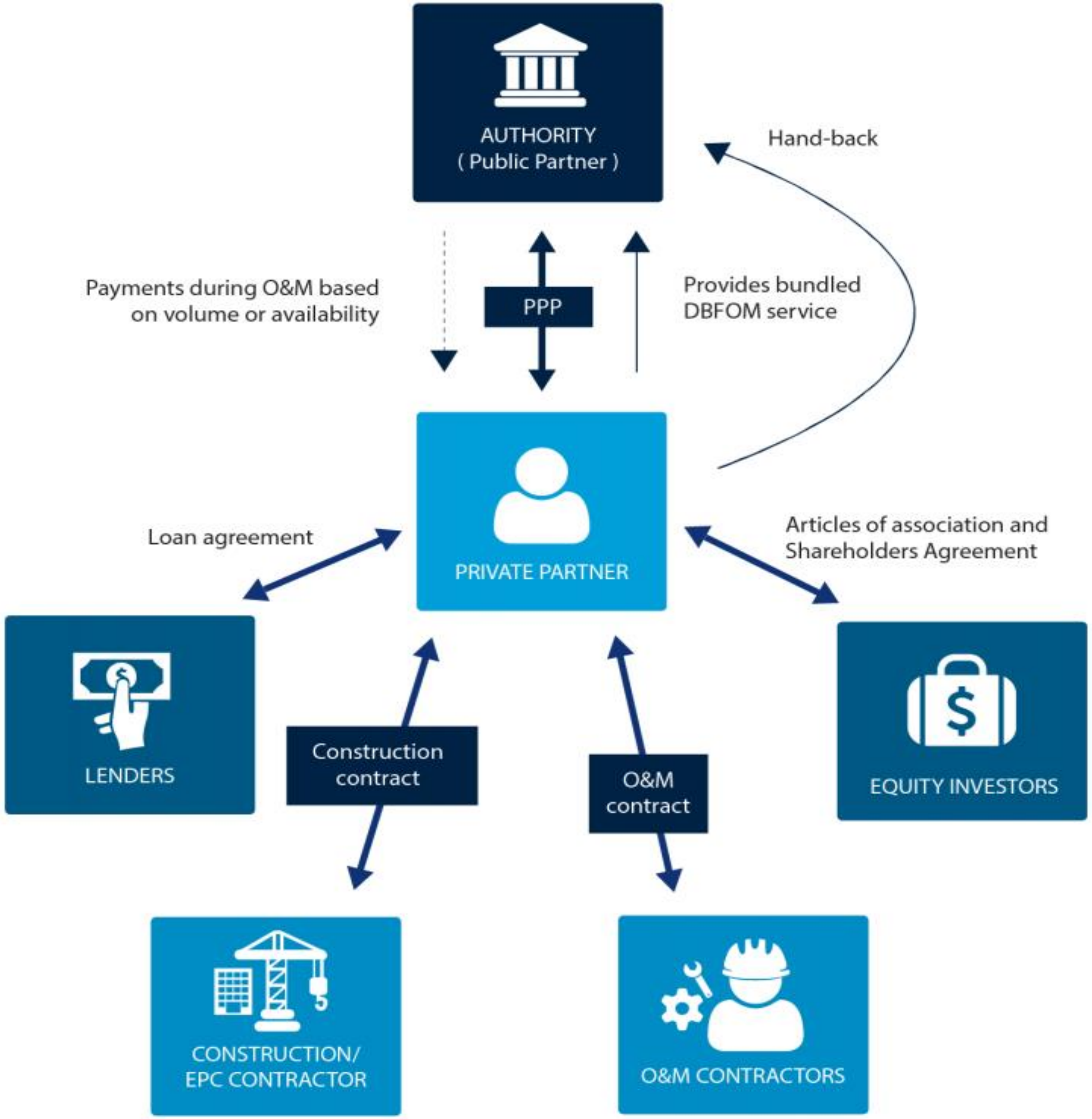
5.4. Infrastructure Procurement Options that may be Regarded as PPPs:

FIGURE 1.6: Basic Scheme of a DBFOM Structure (government-pays)

Contract relationship

Service related flows

Cash related flows



5. Procurement Options

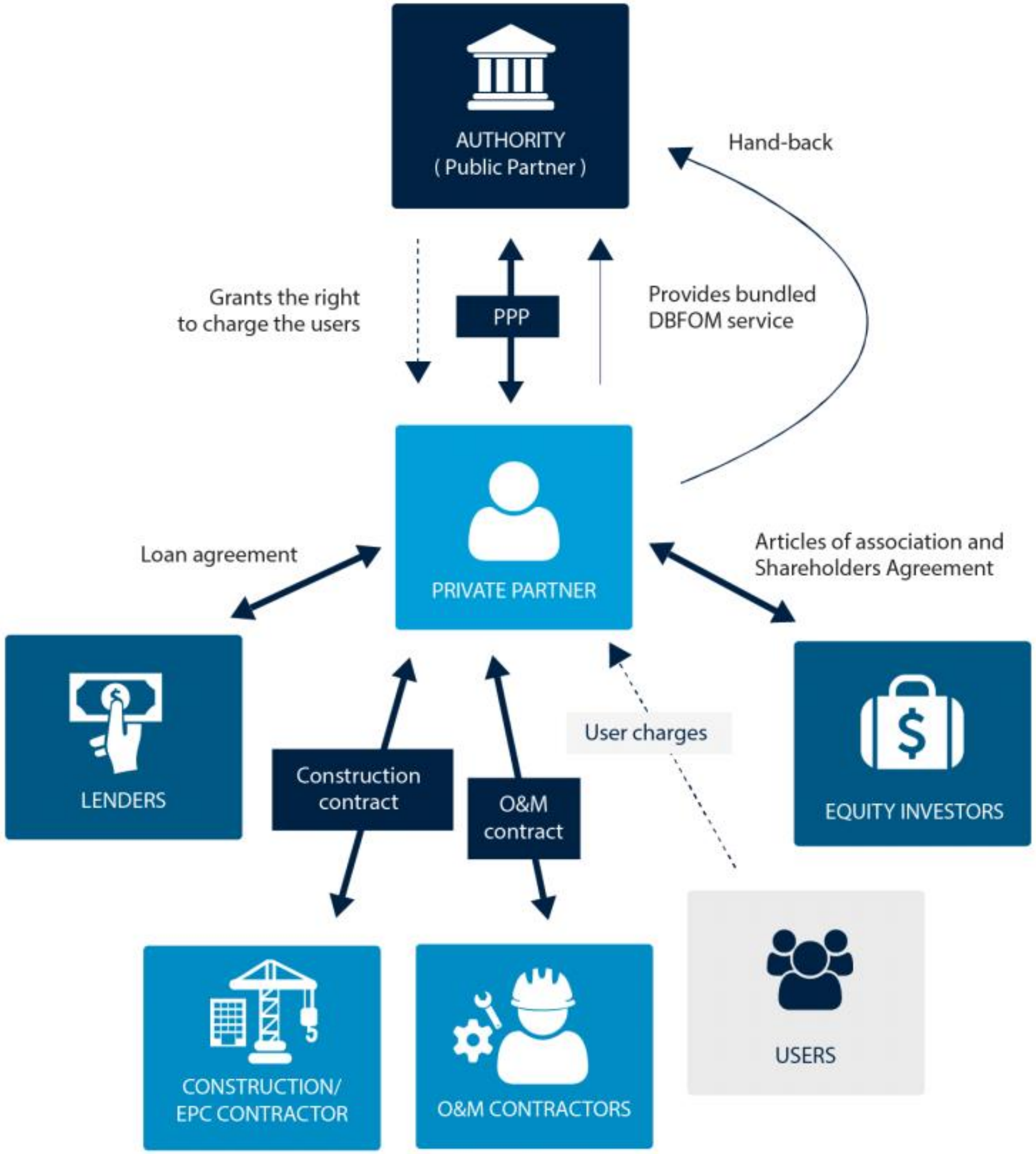
5.5. Infrastructure Procurement Options that may be Regarded as PPPs:

Basic Scheme of a DBFOM Contract Structure (user-pays)

Contract relationship

Service related flows

Cash related flows



5. Procurement Options

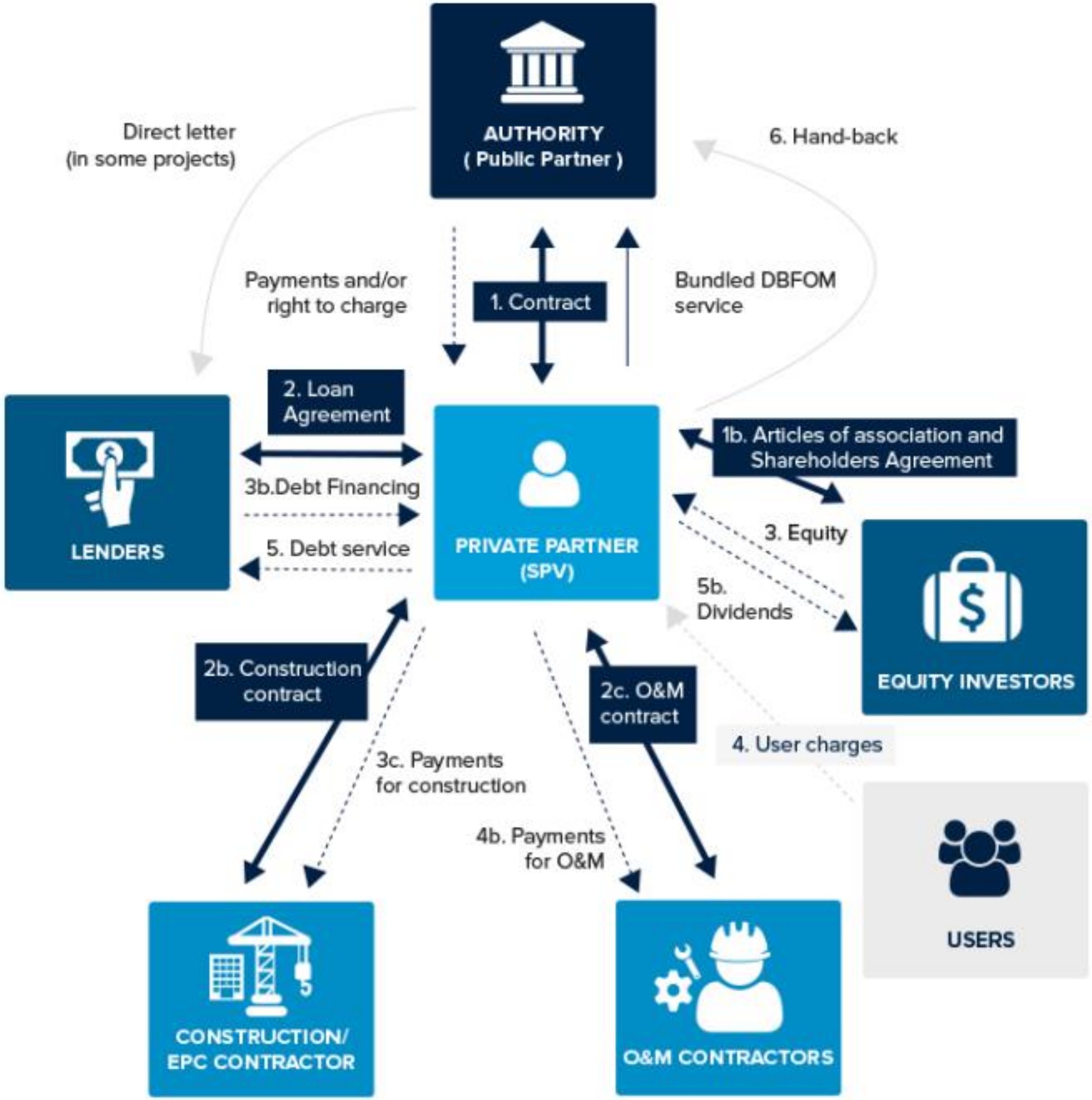
5.6. Infrastructure Procurement Options that may be Regarded as PPPs:

Basic Scheme of a DBFOM Contract Structure (user-pays)

Contract relationship

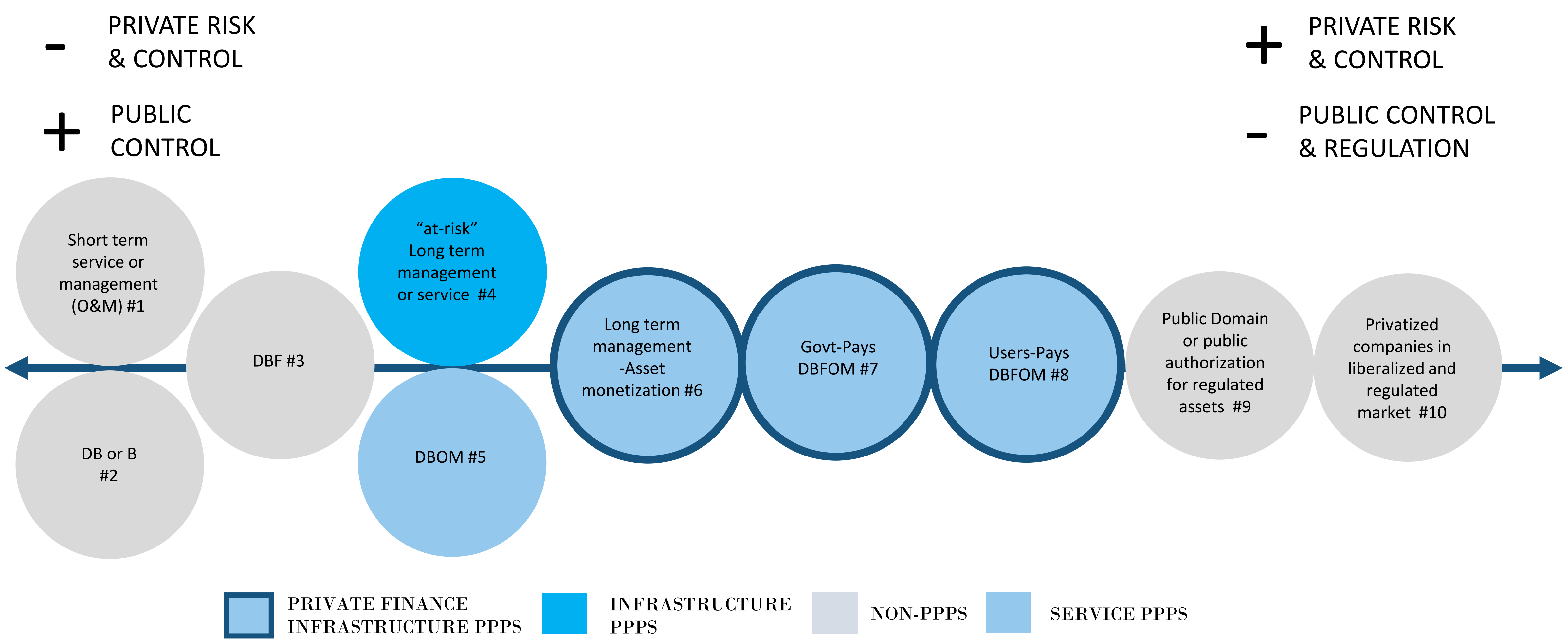
Service related flows

Cash related flows



6. Private Participation

6.1. What is and is not a PPP:



6. Private Participation

6.1. What is and is not a PPP:

Examples:

#1. O & M 2 years contract for road	#5. Contract for delivering an asset where contractor will also provide maintenance for number of years.	#9. a concession to use the land in a port location to develop and operate port related facilities for 99 years at the entire risk of developer, an authorization to develop renewable energy IPP to be compensated according to regulated price subsidized according to renewable energy regulation
#2. Contract for design and build or build only of infrastructure (e.g. a road, a rail track, an entire rail system)	#6. 30 year lease or concession to operate an existing toll road against the payment of an upfront fee, or to operate a water system in a city.	
#3. As in #2 but having the contractor pre-financing the work against future payments.	#7. 25 years DBFOM contract to build finance and menage hospital facility/ building or school, a road or WWTP, etc. Being compensated by performance/ availability payments. A power purchase agreement (PPA) in an independent power Project (IPP)	
#4. 10 years contractor managing a water supply service, 15 years contract to manage bus transport operation in city, 15 years contract to manage renewals and ordinary maintenance in road, under the fixed price and quality deduction. Some time named lease, affermmage, concessions	#8. DBFOM 30 years contract of a road compensated by charges to users collected by private partner, or a concession of water supply where extensive refurbishment and upgrading of infrastructure and plants	#10. A telecom operator, or electricity distribute that competes for clients/users under some limits/ regulation

6. Private Participation

6.1. What is and is not a PPP:

Features of a Private Finance PPP and What is Missed in Other Infrastructure Procurement Methods							
	PPP Feature	**DB**	**DBOM**	**DBF**		**DBFOM/concession (User-Pays)**	**DBFOM or DBFM/ PFI (Govt-Pays)**
1	Is implanted in a contract (between private and public parties)	Yes	Yes	Yes		Yes	Yes
1b	Long-term nature	No	Yes (Normally)	Sometimes		Yes	Yes
2	Includes DB and OM bundled	No	Yes	No		Yes	Yes
3	There is significant risk transfer over the asset life cycle	No	Sometimes	No (Only Construction Risk)		Usually	Usually
4	Includes finance by private sector	No	No	Yes		Yes (Under Project Finance)	Yes (Under Project Finance)
5	Revenues are linked to performance and/or use	No	Sometimes (usually by means of penalties or liquidated damages	No		Yes (Use)	Yes (Performance/Quality)

End of Session

THANKS