



An Analysis of Public-Private Contracting: How Complexity and Uncertainty in Public Service Delivery Make Contracting Unfeasible

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Abstract

Public-private contracting refers to partnerships between the public and private sectors that share the risk, the cost, and the responsibility to execute projects. By utilizing the expertise and skills of the private sector, public private contracting has become a mechanism for enhanced service delivery in the government arena. However, both actors' economic, political, and administrative aspects make the contracting procedure incredibly complicated and impractical. The study used a content analysis approach to thoroughly explore secondary sources of literature in order to examine how challenges within the actor's domain lead to project failure. Two case studies from Netherlands and Bangladesh is presented in the analysis to explain how uncertainty and complexity in the public sector domain made the two dreamy projects unfeasible. The case studies also illustrated several players' competing interests and the usual public sector characteristics persisted in project delivery, which resulted in rising costs and ultimately led to the failure of both initiatives.

Keywords: *Public-Private Contracting; Uncertainty; Complexity; Unfeasibility*

Introduction

All around the world, the functions of government are changing and expanding. According to academic research, the government's development plan today takes into account more varied factors than it did in the past, such as social justice, equity, and innovation. These drastic changes necessitated a reform of public service delivery to include innovative products, new technologies, and new principles (Rocha & Zavale, 2021). In addition, since the 1980s, governments have been advised to scale down their size and modernize the public sector to keep pace with the escalating concerns (Haque, n.d.).

It has been decided that a new form of managerialism method is being incorporated in administrative study to address and recognize the rising demands because older forms of administration disregarded bigger societal difficulties (Andersen & Pors, 2016). Academic researchers came to the conclusion that there was no other option than to adopt managerial approaches from the private sectors

into administration during the transitional phase of governments, despite Peters (2002) finding that the amalgamation of general management principles into public administration was done haphazardly.

As Rittel & Webber (1973) noted, it is challenging for public or private institutions to function alone in a society that is full of "wicked problems," therefore this incorporation eventually led to the establishment of partnerships between entities (Saz-Carranza & Longo, 2012). On the other hand, the private sector is thought to be better equipped with the resources and necessary expertise needed to meet the current challenges in service delivery than the governmental sector (Ahmed & Ali, 2006). In order to overcome obstacles and enhance public policy, governments are increasingly resorting to PPP (Public Private Partnership). This narrative is based on the idea that involving the private sector will raise service standards and increase "value for money" (Klijn, Edelenbos & Hughes, 2007). There are different forms of public-private partnership, and each has identifying characteristics (Hodge and Greve, 2007, 2009; Weihe, 2005; Skelcher, 2005; Saz-Carranza & Longo, 2012). This paper will concentrate on the public-private sector contracting aspect to provide a more in-depth analysis in this respect. This aspect attempts to cut government spending and improve the effectiveness of public services (Prager, 1994).

However, when two sectors with different views and ideals function together, some challenges may arise. PPP is intrinsically linked with significant uncertainties and complexities, which increase the challenges (Flyvbjerg, 2009). Contracting is by its very nature a difficult activity as it seeks to bring together conflicting stakes of several actors and compel them to sign a long-term contract that is packed with onerous reciprocal obligations (Hurk & Verhoest, 2016). Despite the fact that scholarly literature on contracting concerns and challenges is lacking, it has been asserted in the literature that the complexity and uncertainty in the delivery of public services are the main causes of the challenges. In spite of the notion that contracting is typically used to reduce government expenses and deliver quick services, instances from around the world show that this is not always the case.

The purpose of this paper is to investigate the challenges that arise during public-private contracting as a result of the ambiguity and complexity of public service delivery. This paper will first emphasize on definitions of necessary terminology to provide readers a clear understanding of what this paper is specifically referring to in order to analyze it. Later, it will focus on discussing two key difficulties as an illustration and emphasize on the complexity and uncertainty issues that render public private contracting unfeasible. On the basis of these two main issues, two case studies of a particular public service contracting (Town & Country Planning) will be provided in order to develop a logical explanation before offering recommendations as a conclusion.

Method

This study adopted content analysis method to provide a systematic examination of relevant papers on public-private contracting. The purpose of this study is to conduct a content analysis of the academic research papers that analyzed the concept and different dimensions of public-private partnership worldwide.

Definition

What is Public Private contracting

Collaborations between the government and the private sector to provide public services are known as public-private partnerships (Chen, Hubbard & Liao, 2013). Additionally, public-private partnerships that focus on infrastructure development while admitting the risks involved are known as "public private contracting" (Hurk & Verhoest, 2016). However, this definition only offers a very brief overview of the notion of public-private partnerships and focuses on the element of infrastructure development.

The phrase "public-private contracting" encompasses a wide range of concepts, and comprehension of these ideas is essential to constructing the argument of this paper. Each group working together between public and private entities to develop a task has its own goals and expectations. The history of administration and economics is replete with examples of analyzing organizational purpose from an economic perspective. Williamson (1981) made the pioneering argument that organizations and organizations motive should be studied from the perspective of the transaction cost economy. He further stated that internal organizational activities, relationships with the market, and decision-making should all be based on the transaction costs of internal versus external sources. Williamson (1981) suggested that alternative governance systems of organizations should be encouraged while putting an emphasis on transactional cost as the organization's guiding concept. Here, transaction cost is used to describe the cost of working, adopting, and collaborating with other sectors.

However, aside from cost dimensions, this theoretical underpinning is out of date and does not effectively explain all other relevant difficulties in contracting. Evidently, there are a variety of issues driving government partnerships in current world. The partnership between the government and the private sector nowadays is influenced by the rising public demands, political role-play, the expertise of the private sector, bilateral and multi-lateral relationship among countries and their relationship with one another. Governments must consider not just the financial impact of a decision after the COVID-19 outbreak, but also which actions will be financially feasible while maximizing support for vulnerable individuals. In order to do it, they are collaborating with NGOs and volunteer organizations (Thomas, 2022).

This collaboration is termed as demonstration of NPM-led measures to alter the government's structure and rules by Linder (1999). Linder (1999) further argues that, the characteristics of public private contracting can both be formal-hierarchical and informal-horizontal. He continued by saying that in certain ways, principal-agent theory is represented by public private contracting, where the procurer is in charge of selecting and supervising its partner. This is an extremely important narrative that underlines the institutional ideals of public and private entities while highlighting the relationship between them.

Analyzing the political representation of government is another crucial aspect to consider when analyzing public-private contracting because choices are derived from their interests inside the government. Willems & Dooren (2014) claim that the concept of depoliticization is becoming more and more obvious with the influx of technocrats into the realm of public policy. In order to undertake financially viable and responsive actions, they said that this indicated shifting duties and obligations of policy making from elected officials to more technically skilled actors in the policy sphere (Willems & Dooren, 2014). This narrative identifies elected representatives as unknowledgeable, biased and incompetent for policy making in 21st century. They also criticized the actions of the elected government and proposed employing private companies as contractors to address systemic gaps in service delivery and guarantee "value for money." Willems & Dooren (2014) further suggested that public-private contracting can be used to legalize the agenda of supporting a "far-sighted, stable, and public-spirited" reform of policy making in place of the "short-sighted, unstable, and servicing selfish need" approach. While referencing Hodge & Greve (2007), Hurk & Verhoest, (2016) also articulated this proponent in the same way. They identified public-private partnerships as a political objective and an instrument of the state.

All of these analyses have nevertheless established the framework for public-private contracting, but Hurk & Verhoest (2016) have developed the idea further by exploring its complex character. They emphasized 5 vital elements of contracts. These elements are: 1. Collaboration between government and private sector 2. The provision of services, risk sharing, and payment are all covered under a single contract. 3. The discussion, sharing, and transfer of risk element to the private sector (e.g construction risk) 4. As per the agreement, both parties provide financing 5. According to the contract, the public sector pays the private sector on a regular basis.

It may be claimed that contracting is a governance tool that also translates the political will of public actors by taking into account the role of the actors involved in it and by evaluating the primary function played by government (Hurk & Verhoest, 2016). Thus, public-private contracting has an economic, political, and managerial component, which makes the procedure exceedingly complex and puts into doubt its efficacy.

Public service delivery

It is the method through which the people of the nation receive public services including food, road and transportation, health care, and education. Government is the service provider in this case, while citizens are the service receivers (PWC, 2007). Government is now using cutting-edge strategies to deliver public services to people, shifting from a citizen-centric to a client-based approach (PWC, 2007).

Complexity & Uncertainty

In the public sector, uncertainty can refer to a crisis or an event that is unanticipated and negatively affects the operation as a whole, its procedures, and service delivery. An extreme epidemic like Covid-19 that had an impact on all facets of government is an example.

Any internal or external component that makes a task challenging to execute or a goal unattainable is referred to as complexity. Example: Lack of funding, numerous actors, and the authorization procedure are just a few examples of complexity in the provision of public services.

Reasons for contracting

Contracting is based on a number of logical factors. These are:

1. For projects that the government cannot execute on its own, contracting out is a realistic choice.
2. A contracting partner can provide the conventional government with the expertise and technical assistance it needs (Parvu & Voicu-Olteanu, 2009).
3. Contracting facilitates the execution of new government activities, such as the innovation required to boost efficiency and address problems (Hartley et al, 2013).
4. The risk of a financial deficit is reduced in some circumstances when both the public and private sectors invest in funding projects (Grossman & Holzer, 2016).
5. Both public and private entities can gain from one another's authority and entrepreneurship.

Thus, in order to address the problems associated with traditional service delivery and to offer managerialism instruments to enhance the system, public private contracting is introduced into the realm of public administration. By avoiding financial restrictions, sharing risks, and utilizing the technological advantages of the private sector, public private contracting aims to address the complexity and unfeasibility within the public service delivery system that prevents the system from achieving the intended goals (such as quick service delivery, satisfaction) (Mouraviev & Kakabadse, 2013).

Numerous scholarly studies, however, cast doubt on and refuted the widely accepted narrative of contracting. The constraints of contracting, which are obvious in its implementation and execution, provide a severe challenge to this idea. The conflicting ideologies, discourses, and interests of various parties enhance the volatility and complexity of contracting since public private partnerships are both a management tool and a tool for the government (Conteh, 2013). Akintoye et al. (2003) found managerial disagreements, financial obstacles, inadequate risk assessment, and prolonged negotiations as the main difficulties when examining the causes of contracting pitfall. When Babatunde et al. (2015) spoke with numerous contractual stakeholders, they identified similar results. The magnitude of the problems is evident from the respondents' list of 58 obstacles.

Babatunde et al. (2015) analyzed the 58 barriers and categorized them under a few general categories, such as capacity conflict between public and private partners, weak relationships between actors, administrative bottlenecks, service delivery delays, and inadequate financial arrangements. Rezouki & Hassan (2019) recognized similar challenges with contracting and determined that the primary problems were inadequate financial barriers and insufficient administrative procedures to hasten decision-making. Following an analysis of all the pertinent research works in this area, this paper will emphasize on the main complexity and uncertainty problems inside the service delivery system that create unfeasibility towards fulfilling the goal of contracting:

Delay in delivering service

Numerous actors and their competing interests might cause service delivery to be delayed and occasionally cause the project to fail project (Klijn & Teisman, 2003; Rezouki & Hassan, 2019). Additionally, administrative tasks like obtaining authorization from authorities and purchasing land impede the progress of the procedure (Saz-Carranza & Longo, 2012).

Less opportunity for public opinion

When planning and implementing projects, contracting places more emphasis on the relationship between the government and the entrepreneur and less emphasis on the choices of the public. The connection serves as the pivot throughout the whole contracting process (planning, tendering, and implementing), leaving very little room for public choice and voice (Chen, Hubbard & Liao, 2013).

Budgeting and cost projections problem

In contracting, the parties agree to share the costs of the project and, in some situations, the private sector takes the lead in financing (Kolesnikov et al. 2018). Therefore, it is not always possible to obtain long-term finance or equitable financing.

Difficulties in monitoring

Currently, due to globalization, contracting parties can be supranational organizations or multinational corporations. While operating in low- and middle-income nations, these contracting partners tend to control the decision-making process to further their interests. Governments have limited to no scope of opposing them because they serve as the main source of finance and expertise.

Unplanned and uncontrolled cost

As public-private contracting is a labour intensive function, the service fee often goes up in uncontrolled manner. Additionally, contracting addresses human needs, and in this globally interconnected society, it is difficult to predict what people might need. As a result, it is challenging to understand the indications of intended project outcomes and estimate cost management per unit (Babatunde et al, 2015).

Therefore, due to institutional and strategic constraints, public-private contracting is a complex issue. However, it won't be able to provide in-depth explanations of all these concerns due to resource restrictions and other issues. Therefore, the two main issues that make public-private contracting unfeasible will be the focus of this paper. 1) Uncontrolled cost 2) Delay in service delivery, as these are the most common causes of an unsustainable contract. These two crucial difficulties are also linked to other challenges. In order to better understand current issues, these two emphasized issues will also be examined through two case studies of town planning and development services.

Case studies analysis

The Amsterdam train station and adjoining motorway are part of the redevelopment project known as South Axis in Amsterdam, Netherlands, from the 1980s (Klijn & Teisman, 2003). The project faced difficulties due to the expanding infrastructure in the area, which required careful planning to accommodate. All private parties were included in the reconstruction process by the city managers to achieve this. Local level bureaucrats were also involved in the process to study and offer ideas for the master plans. The city council accepted several ideas, including the relocation of subsurface transportation infrastructure, in 1998 after discussion and planning by interest groups in 1996 (Klijn & Teisman, 2003).

Everything was finally resolved, and three significant private partners investigated and approved the viability of such a dreamy proposal. Three private partners—ING Bank, ABN-AMRO Bank, and NS Real Estate—got together and came to an agreement to invest 630 million euros (Klijn & Teisman, 2003). However, both parties to this contract agreed that government funding would be provided and that a portion of the transportation artery would be built above the underground tunnel. Even after a number of years had passed, a final decision regarding the finance was still pending, and nothing further was done. Although there was a respectable level of understanding between public and private players, collaboration rather than responsibility sharing emerged as the outcome (Klijn & Teisman, 2003). However, even after all those years, the project did not materialize because of financial limitations and conflicting interests.

Case Two

The public-private contracting of a developing country like Bangladesh might be summarized as "project delayed; cost soared." The elevated express highway, one of the nation's most anticipated projects, has not been completed since the Bangladesh Bridge Authority (BBA) signed a concessionaire agreement with an Italian-Thai construction firm in 2011 (The daily Star, 2021). The BBA indicated that the project would begin in January 2020 and be finished by 2023 (The daily Star, 2021). Since the Italian-Thai contractor company was unable to get funding totaling \$1.02 billion, the building period dragged on for an additional three years. After a long period of time, the authority ultimately sold its stake to two Chinese firms in March 2020, who would then be in charge of overseeing the development. However, extra expenses, such the cost of purchasing land, have escalated throughout this time due to the process's delay. The project's overall price has now increased to \$1.4 billion (Sultana, 2021). The project's poor luck persisted, though, as covid-19 wreaked havoc on the globe in 2020 and brought everything to a standstill. Construction on the project has not yet started, and it is unclear when it will be completed.

Both of these situations highlight financial limitations and project delivery delays as the primary problems of complexity. To comprehend the problems, we must have a firm grip of the theoretical aspects of the relationships between the two parties. Now that we have dissected the first case study, we can see that public leadership was crucial in organizing and overseeing the cooperation with private actors (Klijn & Teisman, 2003). In addition to those public actors, additional peripheral actors also participated in the process. The large number of participants in one arena, as well as the private sector, further complicated and delayed the process (three private parties were involved). Only public actors can determine whether to build infrastructure, while private actors like developers and financiers can only participate in the execution and financing of the plan. Therefore, when all of these players join up on a single project, they look for their own solutions and try to make the most out of it for themselves. This is the point where the principal agent theory and the reality of contracts collide. As stated in the definition, the principal-agent theory of organizations expresses the notion that creating incentive-based contracts between various participants might improve public sector performance. As a result, it helps public authorities execute their responsibilities while giving private parties direction and motivation (Gauld, 2018). In contrast, there were too many contractual parties involved in the aforementioned examples, which resulted in a great deal of disagreement in terms of project implementation and economic output. The actors in this situation are navigating a complicated environment and influencing the connection in accordance with their

personal preferences. This has an effect on the projected timeframe of contracting. As demonstrated in the case, the project took an unfavorable turn and was delayed to the point of being suspended, despite the fact that it was extremely important for the city of Amsterdam.

Additionally, each time one of these actors join a project, they look for confirmation on their expectations and work to gain the most out of it for themselves (Klijn & Teisman, 2003). To comprehend this narrative the groundbreaking explanation of Jacobs (1994) should be mentioned, in which he highlighted the ideological contrasts between the public and private sectors. According to Jacobs (1994), there are two ethical systems with distinct "moral pathologies" in the public and private spheres. The public sector is characterized by the guardian syndrome, whereas the private sphere is characterized by the commercial syndrome. He explained that whereas traditional, hierarchical, and risk aversion are traits of the public sector, competition and attaining cooperation are traits of private firms. He used these attributes to demonstrate why the union of two groups results in problems. These traits very well explain the underlying reasons for interest conflicts, which usually generate unfeasibility and delay when these two parties enter into a contract together. Although Jacobs' (1994) perspective is more critical and ignores current implementation issues, this interpretation of the principal-agent relationship cannot be disproved.

We can examine Carpintero & Petersen to learn about the current challenges (2014). Carpintero & Petersen (2014) looked at numerous contemporary factors that lead to delayed decision-making in a case study of the construction of a waste water treatment facility through contracting in Spain. The project was required to go through procedures like getting other departmental authority's clearance for land acquisition. The authority's decision to provide the permit took longer as a result. In their analysis of all the plant building cases, Carpintero & Petersen (2014) came to the conclusion that the lengthy regional approval process for land acquisitions and the lack of available land were the main causes of the projects' delays. Similar problems occurred in the second case study in Dhaka, where it took the government much longer time to purchase the land for project development and hand it over to the private party.

The unpredictability and uncontrollability of the cost is another significant barrier to public-private contracting. The public sector uses contracts to share costs and keep project costs within a certain range (Rasheli, 2016). Nevertheless, there is a long history of unanticipated expenses emerging from public-private contracting. In this regard, Flyvbjerg's (2009) research showed that project delays raise project costs, demonstrating the interconnectedness of these two factors. Due to the construction team's delays and poor money management, the budget for the elevated express highway project in case two had unmistakably increased.

Unequal risk sharing is another factor contributing to the ambiguity of project costs. Theoretically, risk should be distributed in accordance with the expertise of each sector (Carpintero & Petersen, 2014). In PPP projects, risk variables are inadequately handled and there is frequently no clear allocation of risk factors among partners, according to Carpintero & Petersen (2014), who also agreed with Ng & Loosemore (2007). For instance, in both case studies, the risk of demand was shifted to the concessionaire despite having no control over it. Additionally, both projects had rather high costs from a transaction cost viewpoint, with no results to show for it. Transaction costs that are exclusive to one party cause uncertainty, claims Williamson (1981). Additionally, a high transaction frequency results in an increase in transaction costs, which is what happened in both case studies. The costs increased as a result of the search for traders, negotiations with contracting partners, and midstream contractor changes.

Conclusion

This paper examines the value of public-private contracting for delivering public services and offers an evidence-based analysis that demonstrates how the uncertainty and complexity of such partnerships are impeding the success of such contracting. Public-private partnerships have grown in

prominence because of their inherent advantages (Babatunde et al., 2015), yet because of their complex problems, they have proved to be "right concept at the wrong time" (Klijn & Teisman, 2003). Nonetheless, being aware of the possibilities of such contracting governments and international organizations are developing standards to be adhered to by both contracting parties (European Commission, 2003; UNICEF, 2008; Hurk & Verhoest, 2016). According to the Dutch Knowledge Centre on PPP, PPP accelerates up the completion of infrastructure projects, and this advantage (financial and material) will outweigh the partnership's transaction costs (Klijn & Teisman, 2003). The projects must be thoroughly studied in order to optimize the benefits of contracting out, and the principle agent (government) should act as a guarantor in this situation to ensure that no one's rights are infringed (Kolesnikov et al, 2018). In this situation, the policy transfer option can assist governments in determining who to hire and how projects can be completed successfully. In order to make contracting feasible, the government can acquire and evaluate possibilities through the policy transfer mechanism.

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