Managing Fiscal Risks from PPP: Country case of Portugal

World Bank Treasury webinar

April 12th, 2017
1) UTAP in brief
2) The development of the Portuguese PPP portfolio
3) 2011 sector crisis and 2012 legal and institutional reform
4) Fiscal risk management tools: lifecycle perspective
5) Lessons learned
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The Ministry of Finance technical support unit for PPP projects

- A result of the Economic and Financial Support agreement signed by Portugal in 2011 with IMF, EC and ECB
- Established by the 2012 legislation (Decree-Law 111/2012) as part of a comprehensive PPP sector reform
- Fully operational since January 2013
- Currently 11 full time technical staff (a maximum of 13)
- Involvement throughout all stages of project lifecycle
- A close partner of all line ministries with PPP contracts: infrastructures, healthcare, home affairs and environment
- Provides technical support in other large scale projects implemented under other public procurement figures
The Ministry of Finance technical support unit for PPP projects

- **Responsibilities:**
  - Project appraisal, structuring and tendering
  - Reporting system on PPP and concessions
  - Oversee of PPP contracts on behalf of the Ministry of Finance
  - Contract renegotiation
  - Legal and financial technical support to the Ministry of Finance and other ministries and public institutions
  - Budget process support
  - PPP know-how management
  - External representation of Portugal
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PPP portfolio

- Evolution of PPP contracts signed: motorways (M), health care services (Hs), health care infrastructure (Hi), railways (R) and security (S)

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UTAP’s mandate: Central Government PPP

- **32 contracts** in 4 sectors
- **Cumulative investment** of 14.505 million € (December 2015 data)

**Portfolio composition**

<table>
<thead>
<tr>
<th>Sector</th>
<th>Count</th>
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<tbody>
<tr>
<td>Motorways</td>
<td>21</td>
</tr>
<tr>
<td>Health</td>
<td>8</td>
</tr>
<tr>
<td>Railways</td>
<td>2</td>
</tr>
<tr>
<td>Security</td>
<td>1</td>
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</tbody>
</table>

**Cumulative investment**

- Motorways: 13.525; 93%
- Health: 460; 3%
- Railways: 407; 3%
- Security: 113; 1%

*Source: UTAP*
PPP portfolio

Central Government PPP expenses

- Total lifecycle net expenses forecast (32 contracts): 13.400 million €

Central Government PPP net expenses (million €)

Source: UTAP

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2011 crisis and 2012 reform

2011 debt crisis – strong fiscal sustainability concerns about PPP

- **2012 State budget** – PPP sector “do nothing” fiscal scenario seen as unsustainable from a contract lifecycle perspective

![Graph showing fiscal risks from PPP: Country case of Portugal](source: UTAP, from 2012 State Budget data)
2011 crisis and 2012 reform

2011 debt crisis – strong fiscal sustainability concerns about PPP

- **2012 State budget** – PPP sector “do nothing” fiscal scenario seen as unsustainable from a contract lifecycle perspective

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2015 gross fiscal commitment ≈ 2.100 million ≈ 1,5% of GDP

Total outstanding gross payments ≈ 37.000 million €

Source: UTAP, from 2012 State Budget data
2011 crisis and 2012 reform

2011 debt crisis – strong fiscal sustainability concerns about PPP

- Moreover, the State budget figures include only signed PPP contracts with firm financial commitments, and there was a very substantial pipeline of new PPP:
  - 4 road PPP tenders under preparation
  - 20 road PPP under consideration, in different phases of appraisal, planning and structuring
  - The new Lisbon airport: structuring was underway
  - The new high speed railway (HSR) network: over 500 km divided into 6 PPP, 1 under construction, 1 tender launched
  - The new Lisbon hospital tender launched and underway, plus 3 additional PPP hospitals (all 4 infrastructure contracts)
Strong political and public opinion debate around PPP

- Planning, project selection, public accounting and budgeting for PPP not transparent

- Unclear “bill” of projects in the pipeline (new motorways, HSR and new airport) and strong concerns about financial/fiscal sustainability

- A clear problem regarding “adverse selection” of projects:
  - Projects developed with high optimism bias
  - Lack of a centralized public body or standardized procedure for cross-section project selection
  - Large volumes of “cheap money” from banks available for project finance infrastructure operations – a matter of “bankable” versus “good projects”?
2011 crisis and 2012 reform

2012 Ministry of Finance + IMF public sector audit regarding PPP sector

- Lack of coordinated and centralized public action, even within the MoF
- Asymmetry of information, resources and technical capacity – underdimensioned and/or poorly prepared public teams
- Excessive resource to external advisers and low capacity to accumulate experience by the public sector
- Deficit of quality in some key methodologies – CBA, PSC, VfM...
- Poor contract management by line ministries – insufficient resources
- The role of “gatekeeper” by the Minister of Finance was ineffective, due to technical and political reasons
- Poor control of fiscal risks and contingent liabilities – frequent unilateral acts by public partners, increasing litigation and fiscal uncertainty
2011 crisis and 2012 reform

Legal and institutional PPP framework reform launched in 2012

- Regain control over the fiscal outcome of PPP, both concerning known and contingent liabilities
- Reinforce the role of the MoF, evolving from a “gatekeeping role” to active participation throughout project lifecycle
- Create inside the MoF a professional and stable structure, specialized in PPP financial and legal affairs – centralize action and ensure the know-how and technical capacity are created (and stay)
- Apply more rigorous technical methodologies and criteria in structuring and launching PPP projects – CBA, VfM, PSC
- Enhance transparency along project lifecycle – public disclosure
- Improve the fiscal control and reporting system – public disclosure
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Fiscal risk management tools

Decree-Law 111/2012 – key features introduced by the reform

- **Institutional perspective:**
  - Creation of UTAP, as the “long arm” of the MoF, with a lifecycle approach to fiscal risk management

- **Fiscal control measures during structuring and tendering phases:**
  - Compulsory project affordability and fiscal impact studies
  - Sensitivity analysis on fiscal performance of projects – regarding project and macroeconomic variables
  - Detailed description of expected project outputs
  - Issue a detailed risk matrix – public/private risk allocation and expected fiscal impact, including mitigation strategies for risk retained by the public sector
Fiscal risk management tools

Decree-Law 111/2012 – key features introduced by the reform

- Fiscal control measures during execution and contract management:
  - Minimization of unilateral decisions by public partners
  - Ex-ante determination of fiscal impacts and affordability of unilateral measures
  - Fiscal impact assessment of contract renegotiations as well as change in the original risk matrix

- Transparency and information disclosure:
  - Compulsory disclosure of (i) PPP contracts and annexes, (ii) annual and quarterly reports on financial and fiscal impact of PPP, (iii) any relevant legislation and appointment of task teams, and (iv) tender documents – UTAP’s own website
### Fiscal risk management tools

#### DL 86/2003 PPP regime arrangements

- **PPP project proposal + structure**
  - Preliminary studies
  - Strategic studies
  - Cost-Benefit Analysis (CBA)
  - Tender documents preparation
  - Draft legal documents

- **“Follow-up commission”**
  - Analyze and further develop previous documents/studies
  - Value for Money analysis, PSC

- **“Tender commission”**
  - Evaluation of bids
  - Shortlist of bidders
  - Negotiation phase
  - Award proposal to ministries

- **Contract management**
  - Budget and fiscal follow-up

- **Parity of ministries:**
  - 1 President
  - 2 line ministry
  - 2 MoF

- **MoF leadership:**
  - Parpública, SGPS
  - DGTF

#### DL 111/2012 PPP regime arrangements

- **PPP project proposal**
  - Preliminary studies
  - Reasoned PPP proposal

- **Work developed by line ministry teams**

- **“Project team”**
  - Strategic studies
  - Cost-Benefit Analysis (CBA)
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MoF leadership:
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**Project structuring and appraisal: leadership assumed by the MoF through UTAP**

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**MoF leadership:**
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**DL 111/2012 PPP regime arrangements**
- Work developed by line ministry teams

**Leadership assumed by MoF through UTAP along the project lifecycle**

**Parity of ministries:**
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- DL 111/2012 PPP regime arrangements
- “Project team”
- “Follow-up commission”
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- Parity of ministries
- MoF leadership
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Lessons learned

- MoF role as gatekeeper is ineffective – technical and political reasons
- Thorough involvement of the Ministry of Finance required along the lifecycle (“end-to-end”) – resident PPP unit strongly recommended
- Sound fiscal management starts with sound project selection – cross-sector planning, project appraisal (CBA), risk allocation...
- Need for solid multiannual fiscal planning and accounting procedures
- Transparency and disclosure of information, reporting system – prevent and manage fiscal, political and public opinion related risks
- Adequate contract management is a key factor for success at different levels – need to reinforce public teams in this area
- “Stick to the plan” – avoid unilateral actions by the public sector, thus reducing fiscal risks and contingent liabilities
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