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Nataliia BONDAR[1]
Oleksandr BAKALINSKYI[2]

FORMS AND PRINCIPLES OF STATE SUPPORT FOR PUBLIC-PRIVATE PARTNERSHIP PROJECTS

Infrastructure projects are mostly capital-intensive, have a long payback period, and carry a social burden. The cost of services provided to society is usually regulated by the government. The participation of private investors in such projects is associated with significant risks that arise at the project level and in relation to the state as a partner. On the other hand, the implementation of PPP projects requires significant amounts of funding, which often necessitates the involvement of financial institutions. To implement such projects, it is necessary to provide state support. The article presents the forms of state support used in world practice. The essence and types of state guarantees as a form of state support for PPP projects are disclosed. The principles of their provision are systematized. The author proposes a conceptual approach to the decision-making by governments to provide state guarantees for PPP projects.

Keywords: public-private partnership, state guarantees, risks, project, state support.

1. INTRODUCTION

Stable economic development in any country is impossible without ensuring the efficient operation of infrastructure sectors: transport, energy, communications, housing and utilities, education, healthcare, etc. Due to their great social importance, the cost of services provided to society in these sectors is regulated by the state. Sometimes, certain types of services are planned to be unprofitable (for example, urban transport services at tariffs set by the authorities). This significantly limits the commercial attractiveness of the respective projects. Consequently, the burden of financing the development of these sectors falls on the authorities.

Due to limited budgetary funds and the need for significant funds to maintain the working condition of existing infrastructure facilities, the creation of new facilities is slowing down and sometimes even stopping. That is why modern governments are increasingly using public-private partnerships (PPPs) to develop infrastructure sectors. Various forms of partnerships between the state and private business are actively used in all segments of infrastructure. Partnership projects may involve the construction,

[1] Nataliia Bondar, Rzeszow University of Technology, Poland; e-mail: n.bondar@prz.edu.pl (corresponding author). ORCID:0000-0002-8254-2449.
[2] Oleksandr Bakalinskyi, Luxemburg Institute of Socio-Economic Research, Luxemburg; e-mail: Oleksandr.Bakalinskyi@liser.lu. ORCID: 0000-0003-1215-7470.

modernisation, operation, maintenance of infrastructure facilities, implementation of infrastructure management systems, etc. Such partnerships result in the implementation of projects that would be impossible to finance in the short term by the state alone. Implementation of these projects on a partnership basis allows not only to achieve the industry's development goals, but also to create additional jobs, boost entrepreneurial initiative, promote innovative development of the industry, and social stabilisation of society.

An important feature of PPP projects in many infrastructure sectors (transport, energy) is their high capital intensity, long payback period, and, due to the availability of alternative transport infrastructure facilities, the lack of confidence in the intensity of operation of new facilities. All of this leads to significant risks for both the project itself and its participants. Therefore, to attract investors to such projects, governments resort to providing appropriate support (Dailami and Klein, 1999; Kosov, Sigarev, Popkov, Ekimova, Fedotov, 2020).

In practice, the lack of government support or insufficient support often led to the closure of such projects as ineffective. Excessive project commitments by governments often resulted in the transfer of risk to society in the form of an increase in the budget deficit, the need to reduce public expenditures, and an increase in the tax burden (Irwin, 2007; Pellegrino, Carbonara, Costantino, 2019). This makes it important to study the validity of the provision of state guarantees (SG) by governments for such projects. The purpose of the article is to clarify the content of state guarantees provided to PPP projects, identify their most common types and formulate the principles of providing state guarantees to PPP projects.

2. RESEARCH METHODS

The study used a variety of methods. The monographic method was used to study the opinions of scholars and research reports on the practice of implementing PPP projects, including the forms of state support provided. Comprehensive general scientific approaches such as analysis and synthesis were also used. Based on the systematic approach, the author's concept of government decision-making on the provision of state guarantees for infrastructure projects implemented on the basis of PPPs is proposed.

3. FORMS OF STATE SUPPORT FOR PPP PROJECTS

PPP projects, in particular in the infrastructure sector, are typically implemented on the basis of project finance, whereby the project company formed by the public and private partners bears the debt obligations directly. Under this type of financing, lenders expect to repay the debt from the project's cash flows, and the collateral for their loans is limited to the project's existing assets or future revenues. This results in the transfer of some of the project risks to the lenders in exchange for higher interest rates than in conventional corporate financing.

At the same time, the main features of projects implemented in most infrastructure sectors on the basis of PPPs are: high capital intensity and uncertainty about the demand for services of new infrastructure facilities, sensitivity to changes in market conditions, government policies, negative changes in which reduce the value of projects (the sum of expected discounted cash flows from the project) and increase the risk of investors' investments (He, Shi, Li, 2022).

Therefore, investors will also try to obtain benefits that will cover their risk. All this increases the cost of infrastructure services that will ultimately be provided to society

(Grimsey and Lewis, 2007). Therefore, in order to maintain the cost of these services at an affordable level, there is a need for financial support of the project by the state.

Financial state support for the implementation of a PPP project can be provided in the form of

- direct support – in cash or in kind to cover construction costs, provision of inputs, etc.,
- granting privileges in the payment of duties, fees and other payments (e.g., granting tax holidays to the project company),
- financing of project implementation by providing loans (including mezzanine loans), investments in the equity capital of the project company,
- financing of „hidden" tariffs and subsidising tariffs for certain or all categories of consumers in order to reduce the demand risk borne by the project company.

These forms of support can be combined with each other.

Targeted support is aimed at achieving a specific result and may have an impact on the requirements for the result or quality of services (works) (e.g., provision of services to residents of a certain territory, etc.).

Other forms of support occur when the state does not directly participate in project financing, but assumes certain obligations in the form of

- guarantees. they relate to both loan repayments by the project company and the exchange rate, obligations to purchase services, collection of tariff payments, the permitted level of tariffs, the volume of demand for services, compensation to private businesses in case of contract termination,
- guarantees of reimbursement of losses in case of non-payment by public authorities, insufficient revenues or cost overruns,
- insurance; coverage of project risks (hedging against changes in the exchange rate, adverse weather conditions, etc.),
- contingent loan in the form of commitments to lend to the project company in the future.

In the course of implementing PPP projects, issues of risk allocation between partners arise. It is clear that such allocation should be based on the principle: whoever can influence the degree of risk manages it. However, there are often situations when the „standard" approach to risk allocation between partners does not provide the benefits of the PPP project (Li, 2020). In such situations, it is advisable to use the mechanism of state guarantees (GGs). Such guarantees can be applied in various forms and can be targeted at the entire PPP market, as well as at certain programmes or specific projects (Sant'Anna, Brandão, Bastian-Pinto, Gomes, 2022).

4. STATE GUARANTEES AS A FORM OF STATE SUPPORT FOR PPP PROJECTS

State guarantees have been an integral part of PPP projects for a long time, but since the global crisis in 2007, their use has become more widespread and diverse.

In terms of content, government guarantees can be viewed as agreements under which the government (any level of government with the authority to initiate and support the implementation of a PPP project) agrees to assume all or some of the risks of reducing the value of the PPP project.

By their nature, government guarantees can be viewed as secondary obligations that legally bind the government to assume the specified obligations if the events specified in the agreement occur.

Also, government guarantees should be considered as a contingent liability because there is uncertainty as to whether the government will be able to make the payments and, if so, how much and when it will be obliged to pay. As a rule, GGs are used when suppliers of long-term credit resources (commercial banks, national and international financial institutions, capital markets) are reluctant to provide them to a project company, fearing credit risks and the potential threat of losing the loan (Lu, Chao, Sheppard, 2019).

GGs can also be used to provide benefits to the participants (founders) of a project company when it is necessary to protect their investments from specific risks.

In general, the main reasons for the use of DGs by governments are as follows:

1. Political: 1) building confidence in PPP processes, supporting the development of the PPP market, demonstrating the government's commitment; 2) accelerating the implementation of investment projects; 3) supporting strategically important investment projects.
2. Financial: 1) stimulating investment in large-scale projects; 2) reducing the cost of capital of the project company and improving the value for money of services to be provided as a result of the project; 3) ensuring stability in financial markets by: increasing liquidity or reducing credit risks of creditors; 4) improving financing conditions through lower pricing and longer terms of debt capital use; 5) providing the public with an asset built without the need for significant public investment; 6) attracting new sources of financing for PPP projects, including capital markets (e.g., bonds issued by project companies).
3. Project risks: 1) project company default risks. In this case, the DG protects creditors from the risk of the project company's default and bankruptcy, regardless of the reasons for such a situation; 2) demand risks. These risks are commercial risks and are usually transferred to the private partner. In cases where the project involves significant investment and the forecast demand is uncertain, or the government is the sole user of the project company's services, the government may assume partial or full risk. This is done in order to reduce the risks of creditors associated with fluctuations in the company's income; 3) construction risks. The government considers the risks associated with the implementation of particularly complex projects (for example, geological surveys of large tunnel projects); 4) technological risks. As a rule, lenders avoid risks associated with the development and first steps of implementation of high-risk technologies, technological risks of obsolescence in PPP projects; 5) political risks. Such risks must be assumed by the government, as they are the result of unpredictable changes in government actions. They may relate to such issues as changes in the price (tariff) for the project company's services, changes in service fees, unforeseen changes in laws and regulations, changes in the quality of service, free confiscation, etc. In this case, the provision of DGs protects private participants from adverse changes in the macroeconomic environment (e.g., devaluation, interest rate fluctuations); 7) residual value risk. It relates to the value of an asset that will be returned to the government at the end of the project (e.g., concession).

Consequently, government guarantees are one of the most important instruments for reducing the risks of PPP projects.

From a legal point of view, PPGs can be guarantees in the narrow sense, but they can also take the form of contractual obligations (under the PPP agreement or other project agreements), cost reimbursement letters, and even letters of intent.

The most common types of GCs are:

1. financing guarantees. They focus on the lenders of PPP projects and can take the form of: loan guarantees; refinancing guarantees,
2. separate provisions in the PPP agreement, rather than additional agreements between the state and the creditor (investor). In particular, such provisions in the PPP agreement include the following typical clauses: income or guarantee of use; guaranteed minimum service fee; change in statutory (regulatory) obligations; and termination payments,
3. assumption by the government of the project company's debt obligations (issuance of bonds). In this case, the government becomes a borrower, relieving the project company of this obligation,
4. residual value payments. Such guarantees are used in projects where the duration of the contract does not allow the private investor to recover the investment. In this case, the government undertakes to reimburse the private investor for the relevant amount after the contract expires.

At the same time, different types of PPAs are not only mutually exclusive, but often complement each other in the spectrum of state support for a project in the interests of creditors and/or investors.

5. PRINCIPLES OF GOVERNMENT GUARANTEES FOR PPP PROJECTS

The government guarantees for PPP projects should be based on the following principles:

1. The best value for money should be ensured for the services to be provided by the project.
2. Incentives should be maintained for private partners to carefully evaluate investment projects and to perform efficiently.
3. Governments should avoid implicit commitments in PPP projects and should not attempt to rescue all PPP projects at any stage of their implementation. All project participants should know in advance when, to what extent and under what conditions the government will support the project.
4. Guarantees should be subject to certain rules, as they entail risk management and additional obligations of the government.
5. DGs should be provided on a fee basis. The reasons for this are: 1) the government can act as an insurer that assumes the relevant risks; 2) the payment for GGs allows project companies to choose options for attracting guarantees; 3) the funds charged for GGs are an important determinant of the value of guarantees in monetary terms. The value should reimburse the government for the administrative costs of issuing and managing the GGs; 4) charging for GGs provides certain incentives to the financial market; 5) charging for GGs provides incentives to the project company to restructure its sources of financing.
6. Before granting a GGs, the government should decide on a number of key issues: 1) who will pay for the provided GGs; 2) when to charge for the provided GGs (during the operation period or at the end of the project); 3) determining the amount of the GGs payment.
7. GGs should be limited in scope and duration: 1) more active provision of GGs in the early stages of PPP projects, when there is significant uncertainty about the project outcomes; 2) not all project phases require government support.
8. GGs should be revolving.

As a result of its contingent nature, a GGs may have a significant impact on future public finances. The expected potential value associated with a GGs should be carefully assessed and taken into account in the budget of the country, region, etc. In addition, GGs are often limited by legal requirements, such as national or international (e.g. European) regulations.

In general, the provision of GGs entails financial risk that needs to be managed. To this end, all information on the provision of GGs should be centralised. The Ministry of Finance should play a key role in the development and review of the provision of GGs.

6. PROCEDURE FOR MAKING DECISIONS ON STATE GUARANTEES FOR PPP PROJECTS

The decision-making procedure for providing government guarantees should include a number of steps that will allow for a realistic assessment of the need for such guarantees, their scope, forecasting the expected consequences for the government, and developing a number of preventive measures to eliminate the negative impact on the budget.

In general, the government's decision-making process for providing state guarantees should include the following steps (Figure 1):

1. Establishment of national legislative regulation of state support for public-private partnership programs (projects).
2. Establishing the configuration and constraints for the GGs for a specific PPP program (project). At this stage, the following tasks need to be solved:
   - define the configuration of the state guarantees: Are GGs provided under a specific PPP program or under a specific PPP project,
   - identify the problems to be solved by the provision of the GGs,
   - determine the limits of risks covered by the GGs,
   - evaluate the value for money of the GGs,
   - compare it with other forms of government intervention in the project (investment grants, credit lines, tax benefits, insurance systems),
   - define the limits of providing GGs in terms of limiting political risks.
3. Introduction of the rules for granting GGs for a specific PPP program (project). The following actions are envisaged:
   - establishing eligibility criteria for PPP projects to receive GGs,
   - establishing the basic conditions for granting GGs to PPP programs and individual PPP projects within the relevant programs,
   - involvement of government stakeholders in decision-making, whose competence includes approval of PPP projects and draft budgets,
   - clear definition of the governmental legal entity that will provide the GGs,
   - clear identification and structuring of potential recipients of the GGs,
   - determination of the range of risks associated with the provision of GGs,
   - establishing project phases of the PPP project to which the provision of GGs may be applied,
   - ensuring that investors are incentivised to manage the risks they can influence,
   - preserving a certain level of risk for lenders to avoid their bad faith,
   - drawing up plans for the provision of GGs.

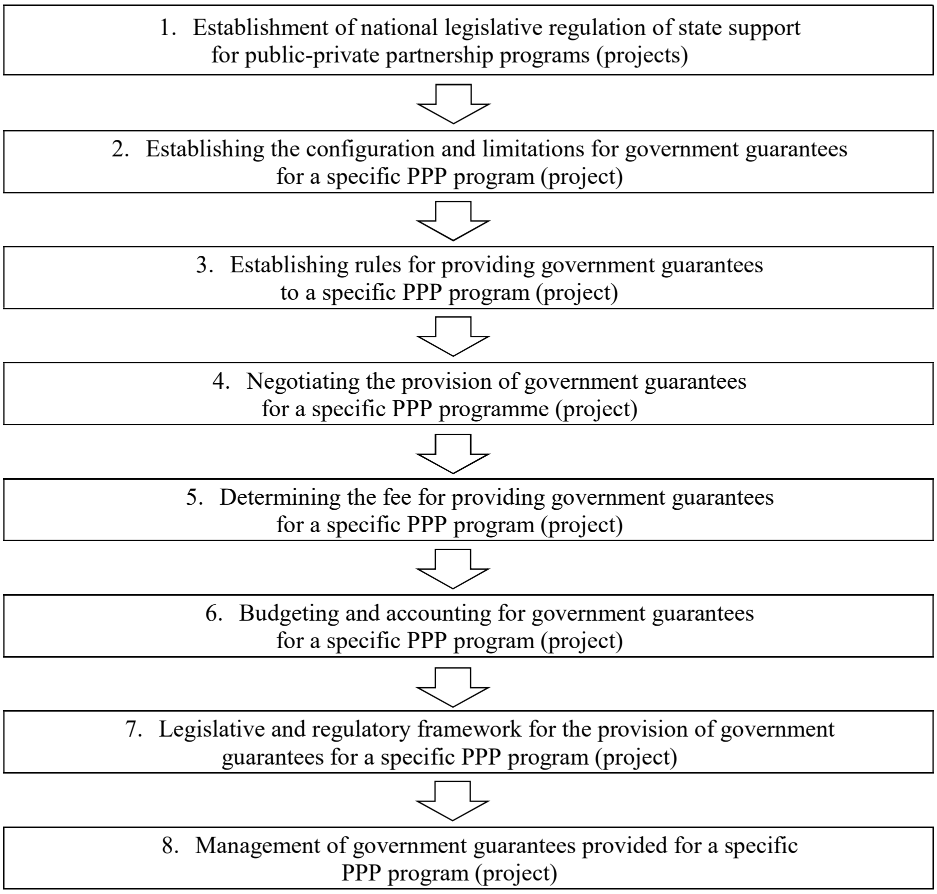

Figure 1. Conceptual scheme of the government's decision-making on the provision of government guarantees

Source: (Бондар, 2014).

4. Negotiate the provision of the GGs for a specific PPP program (project). At this stage, it is necessary to:
   - engage highly qualified specialists or consultants,
   - optimise the negotiation procedure to avoid bureaucracy and ensure quick decision-making,
   - study the problems of relations between the PPP project's creditors and the impact of the provision of GGs on the preferences of individual creditors,
   - to rank the creditors' requirements in terms of priority of granting them GGs.
5. Determination of the fee for the provision of GGs for a specific PPP program (project). It involves solving the following tasks:
   - engaging highly qualified specialists or consultants, as the decisions made may affect the behaviour of PPP participants,
   - establishing the cost of providing GGs, taking into account administrative costs and a certain remuneration to the state for risk,

- establishing the circle of persons who will pay and the terms of payment for the provided GGs,
- establishing compliance of the amount of payment for the provided GGs with the current state support policy.

6. Budgeting and accounting for the provision of GGs for a specific PPP program (project). At this stage, actions are taken to:
   - establishing a procedure for accounting and planning for the provision of GGs,
   - full disclosure in the budget of the obligations assumed by the government as a result of the provision of GGs and ensuring the publicity of this information,
   - ensuring centralised management by the Ministry of Finance or another person authorised by it,
   - checking the compatibility of the granted GGs with the state budget constraints.
7. Legislative and regulatory regulation of the provision of GGs for a specific PPP program (project). This stage is aimed at:
   - ensuring compliance of the granted GGs with the current legislation,
   - checking at the early stages the compliance of the project of providing the State Aid with the regulatory provisions of the GGs provision,
   - to ensure that the issues related to the provision of GGs are included in the project agreement or additional agreements.
8. Management of the granted GGs for a specific PPP program (project). This involves assigning the leading role in the management of GGs to the Ministry of Finance.

Consistent implementation of these stages of the proposed „technological map" for consideration and decision-making related to the provision of GGs to PPP projects and their further management will optimise the budgetary burden caused by the government's assumption of the relevant contingent liabilities and ensure the fulfilment of the latter.

7. CONCLUSIONS

Government support is a prerequisite for the successful implementation of PPP projects. It can be provided in technical, financial, targeted and other forms (guarantees to the project company regarding the level of tariffs, provision of loans in the future, compensation for losses in case of insufficient demand, etc.). An important form of government support for PPP projects is the provision of government guarantees.

The issue of government guarantees is a complex one. It involves reconciling the interests of both PPP project participants and users of the services to be provided as a result of the project; it requires a certain level of protection of investors' and creditors' interests and fair risk sharing with them; and it should take into account the financial capacity of budgets. At the same time, due to the variety of forms of provision, state guarantees are becoming a universal instrument that increases the investment attractiveness of a PPP project, reduces the risks of loss of financial stability of the project company, disruption of project implementation, and risks of creditors. Ultimately, this creates the preconditions for ensuring the optimal ratio between the price and quality of services to be provided to society as a result of the project implementation.

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