

# Vietnam's PPP law

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Vietnam has just delayed the introduction of its PPP law. The law was meant to come into effect in June, but is now at least several months away. The news is a setback as the country is in need of the extra investment a transparent PPP process would help attract.

Earlier this year, Vietnam's prime minister Nguyen Tan Dung approved 127 projects open to foreign investors through to 2020. Thirty-five of these are set to be PPPs. The majority of projects in the country were previously built on a build, operate and transfer basis.

Internal government figures suggest the country needs around \$20 billion a year through to 2020 to complete the planned projects. But it is only obtaining around \$3 billion to \$5 billion a year, according to sources.

The country does receive substantial investment from Japanese investors. Japanese manufacturer Bridgestone has a \$1.6 billion factory in an industrial park near Lach Huyen. And oil and energy company JX Nippon also has a roughly \$40 million plant nearby. Most of this is aided by close political ties between Japan and Vietnam.

But as the figures above illustrate, Vietnam needs more investment and would do well to avoid relying too heavily on just one source.

## **Lach Huyen port**

The \$1.3 billion Lach Huyen port project located in Vietnam's third largest city Haiphong began this year and there remains confusion over whether the second stage of the project is a PPP or not. The project is also another example of the close ties between Japanese companies and the Vietnamese government.

The port is being developed in two stages. The first stage of general construction is being funded by Japan's ODA and the Vietnam government, and will cost roughly \$900 million. Government entity VinaMarine is managing phase one of the project.

The \$300 million second stage, which will construct bulk and container terminals, is being touted by the Vietnamese as a PPP project. Saigon New Port, which is owned by the Vietnamese army, will be lead sponsor for this stage, with a 51% overall stake. Japanese investors have again shown interest in taking an equity role in the second stage, but so has Belgium fund InfraAsia.

However while called a PPP by the Vietnamese, Lach Huyen does not meet developed markets' definitions. Despite Saigon New Port being awarded the project by the government, a granting authority is yet to be named.

One of the foreign investors described their potential involvement in the bulk project as a joint stock company venture with Saigon New Port. VinaMarine however claim that it is a PPP project. Works are meant to begin in April 2015.

## Decision 71

Vietnam has attempted to trial PPP projects under regulation Decision 71, which has been in place since 2009 to replace the country's reliance on build, operate and transfer contracts. But issues such as lengthy time frames for awarding contracts and opaque tendering hampered the scheme.

The proposed new PPP law will address Decision 71's shortcomings.

Projects procured under Decision 71 in Vietnam have long time frames, with the awarding of contracts taking up to five years. The tendering and bidding processes are also opaque. Only 14 of 387 build, operate and transfer (BOT) projects have gone out for competitive tender since 2007.

The new PPP law is looking to solve these issues. Documentation will be standardised to increase transparency. The time frame for bidding sponsors to be awarded is also planned to be reduced from the present five years to a ceiling of 24 months.

The hope is that speeding up PPP projects, and increasing transparency will attract more international capital into the country to invest in these projects. A number of undisclosed projects earmarked as pilot schemes are undergoing pre-feasibility checks at the moment.

The proposed PPP law is currently in its fourth draft. While it was initially said to be coming into effect in June 2014, this is now not happening.

These delays are caused by competing ministries rejecting and amending various clauses. It is understood that the latest draft PPP law has just recently been sent to the Ministry of Justice for their review. Once signed off, it will go to the prime minister for final approval. This approval is now expected within the next few months.

However, a source told IJGlobal that while this is a positive sign, the law could be further delayed by the Byzantine nature of the Vietnamese state. The country is close to establishing a suitable legal framework for foreign investors. The final hurdle is to introduce it.

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