



Infrastructure and Public Procurement COVID-19 Responses “Management of Ongoing Infrastructure Contracts”

27 May, 2020 – 2:00 PM (CET)

[Watch the webinar here](#)

On 27 May 2020, the OECD had its first webinar from the series on the Infrastructure and Public Procurement Responses to the COVID-19 pandemic. The Webinar focused on the challenges, strategies and measures taken by OECD countries to manage ongoing infrastructure contracts throughout the crisis. Temporary measures adopted to sustain infrastructure contracts in the short-term were discussed, as well as the considerations for the long-lasting effects that economic disruptions may cause to these and similar contracts, including PPPs and concessions. This note summarizes some of the key messages identified by the audiences, panellists and speakers.

PANELLISTS

-  Diego Morales, *Planning, Risk and Environment Vice-president, National Infrastructure Agency (ANI), Colombia*
-  Matthew Vickerstaff, *Deputy CEO & Head of Project Finance, Infrastructure and Projects Authority, United Kingdom*
-  Pierre Antoine Rohan, *Projects Director, Mission d'appui au Financement des Infrastructures Fininfra, Direction Générale Trésor, France*
-  Setsuko Saya, *Executive Fellow, Overseas Construction Association of Japan Inc., Japan*
-  Salim Bensmail, *Group Managing Director for Strategy & Partnerships, John Laing Group, United Kingdom*

Execution delays, economic impact of lower demand and the risk of default/bankruptcy are some of the main challenges faced by governments and private contractors

1. a) What are the main challenges that governments and infrastructure private contractors are facing during the COVID-19 crisis? (Multiple choice)



Supply chain disruptions and construction site closures have led to project execution delays.

The severity of disruptions differs drastically across countries and projects. The impact of disruption in supply chains, particularly in construction materials, has been particularly a main issue for the private sector in Japan. In other parts of Asia and Africa the situation is even more critical, mainly because access to construction sites is very limited. Immigration restrictions are also an issue, as workers are unable to access countries where construction sites are located. Interestingly, disruptions in mobility have been positive for projects under construction in other places of the world, where lack of traffic has facilitated a faster and more efficient construction.



Ensuring private contractors’ cash flows and project liquidity has been a major concern for the public sector. The construction sector is mainly a cash flow driven business. Especially after such a long pause, it is difficult for companies to get cash flows up and running. OECD governments have designed different strategies to ensure project liquidity. The UK government for example is providing finance support mechanisms at various levels, from SMEs to larger infrastructure corporations such as corporate finance facilities, business interruption loans schemes and bounce-back loans.

Open construction sites raise serious safety and security concerns. Despite of not ranking up top in the poll results, what is distinctive about the impact of COVID-19 on infrastructure projects are the safety and security implications for the execution of projects. Dealing with these issues remotely has been a common challenge across countries, for both public and private sector. One major concern revolves around exposure of local populations and construction workers to the spread of COVID-19 due to open construction sites. The National Infrastructure Agency of Colombian (ANI) has adopted biosecurity guidelines, previously socialised with local governments and the private sector. Together with independent auditors, the ANI has been closely overseeing the implementation of such protocols.

Ongoing dialogues between public authorities and stakeholders, application of force major clauses and methodologies for contract renegotiation have been some of the most relevant strategies used to face the crisis

Open dialogue with local authorities and stakeholders has been the most useful tool to ensure service continuity. Ongoing collaboration between the public and the private sectors has been key to overcome the crisis. Constant communication channels to disseminate new policies and procedures have been critical for service continuity. Countries like UK, Japan and Colombia have enabled workshops and task forces to support ongoing dialogues. Industry task forces were created by the UK Government to support ongoing dialogues between public sector and private contractors. The ANI undertook more than 60 virtual meetings have been held with governors, mayors, COVID-19 regional managers and social leaders to define uniform parameters that address safety and well-being concerns.

1. b) What are the most relevant strategies to ensure service provision and successful execution of ongoing infrastructure contracts? (Multiple choice)



Tailored support for negotiations of damages and over-costs has been a useful strategy. Identifying accurately the losses suffered by each contractor and bolster the negotiation between the parties to swiftly settle these damages is a main challenge in France. FinInfra is currently serving as a help-desk to assist public entities during negotiation processes with contractors and offers tailored responses



based on the context of each infrastructure project. However, we have not seen yet the full extent of the crisis and thus it is very early to decide what type of compensations may proceed, particularly for over-costs resulting from the economic impact on global demand. Renegotiation and temporary reallocation of risks should not be the default option and should be studied with care taking into account the specific circumstances that call for these measures.

Governments have also made efforts to provide general guidelines to address the impacts of COVID-19 on infrastructure projects. Some examples of guidelines adopted in the UK are the “*Procurement Policy Note 02/20: Supplier relief due to COVID-19*” ([available here](#)) and the “*Guidance Note on Supporting vital service provision in PFI /PF2 (and related) contracts during the COVID-19 emergency*” ([available here](#)). Beyond detailed negotiations about contractual arrangements, PPP and PFI contractors have been advised to focus on making sure that contract services are provided.

COVID-19 crisis leaves important lessons on sustainability, governance and inter-institutional cooperation, particularly an emphasis on use of information technologies and ongoing dialogues with public and private stakeholders

Infrastructure will be a key part of the recovery, but we ought to be realistic about how infrastructure can contribute to reviving the economy over the next few years. Governments will aim at a short-term fiscal support to flow into the economy. Unless there are shovel-ready projects, infrastructure will not help for a short-term economic recovery. Projects that were ready to go, or were already happening, are likely to continue. New concessions and PPPs programmes will only have an economic impact in 18 to 14 months from its inception at best, but may help by anchoring medium-term expectations beyond a very short-term. Clearly communicating these considerations will help governments making a decision to include infrastructure projects in their support packages.

After COVID-19, relationships between public granting authorities and private contractors will inevitably change, hopefully towards investing in delivery in a collaborative way. In order to achieve a more interest-aligned approach as opposed to an adversarial contractual relationship, both the public and the private sector should be investing in productivity measures, training, skills and capability, different risk allocations and new methods of construction and contracting. For the private sector, there will be a big difference between investing in availability-based projects as opposed to demand-based projects. For the latter, the dramatic decline in traffic will pose a great challenge. The UK government is also expecting to see supply chains in the infrastructure sector becoming more locally based in order to increase resilience.

One of the main changes stemming from this crisis will be the way in which governments will contract for infrastructure. Some of the things to look for will include which projects will provide the biggest boost in productivity and will rely more on modern methods of construction. Infrastructure projects like fast broadband, 5G, net zero carbon are gaining momentum and we could expect to see spending in this type of projects. For instance, the private sector in Japan is increasingly playing a more prominent role in the fulfilment of national development and sustainable growth goals and will be expected to bring into the execution of infrastructure projects its expertise and cross-sectoral knowledge in areas such as urban planning, technology, environmental protection, health and safety.