



ANTI CORRUPTION AGENCY
OF THE REPUBLIC OF UZBEKISTAN

YUKSALISH
NATIONWIDE MOVEMENT



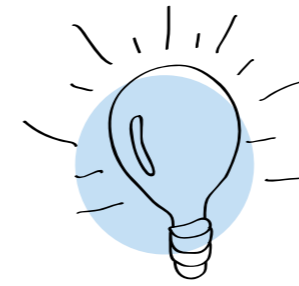
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FINAL REPORT

ON INTEGRITY AND CORRUPTION RISK FACTORS IN
THE PROCESSES OF FOUNDING AND OPERATING A
PRESCHOOL EDUCATION INSTITUTION BASED ON
PUBLIC-PRIVATE PARTNERSHIP

2023



BRIEF SUMMARY OF THE STUDY

The purpose of this study is to assess the factors affecting the effectiveness of the public-private partnership program in the system of preschool education in the Republic of Uzbekistan. Specifically, this document presents the findings of a survey of **integrity and corruption risks¹** in founding and operating preschool education institutions (PEI) based on public-private partnership (PPP). The analysis features the results of the study of the following processes: preparation of PPP projects, the project selection system, concluding respective agreements, and implementation of PPP projects.

The **object of the study** is the effectiveness of organization of PPP processes in preschool education of the Republic of Uzbekistan.

The **subject of the study** are integrity and corruption risk factors in founding and operating PPP-based PEIs that have a negative impact on management and performance of such PEIs, ultimately reducing attractiveness of investment activities for businesses.

The survey included the following steps:

- analysis of statistical data of the Ministry of Preschool Education ;
- desk review of national and international reports, publications in the media and social networks on the research topic;
- analysis of the PPP legal and institutional framework in the preschool education system;
- a roundtable discussion with the participation of key participants in the PPP process, international experts, as well as political parties in order to study all opinions on the existing problems of PPP in preschool education;
- conducting surveys among target groups;
- analysis of the results of the questionnaire survey and interviews with five groups of respondents participating in the partnership process: private entrepreneurs – heads of preschool education institutions, employees of district departments of preschool education, employees of district khokimiyats and banks, as well as parents of kindergarten children.

DISCLAIMER: This report was originally written in Russian. Please, refer to the original text in case there are any inconsistencies in the translation

¹ Integrity and corruption risks in this study are referred to as specific situations in which there are elements of corruption in all its manifestations, both regulated and unregulated by law, and violation of integrity, both by private and public partners (*authors' note*).

Using the above methods, this study has revealed sources of PPP inefficiency that constitute corruption and integrity risks factors, and provided expert recommendations to help mitigate these risks in the chosen sector.

Specifically, the analysis of the PPP legal and institutional framework in preschool education revealed the following integrity and corruption risk factors:

- non-transparent processes of filing and processing of applications, selection of projects, reporting mechanism, document management system, monitoring of PEI activities
- lack of clear criteria for selecting projects submitted by private partners
- lack of indicators and criteria to balance duties and obligations of both sides in PPP projects
- lack of a clear definition of functional responsibilities of all actors in the PPP process: public partner, khokimiyat, partner bank, entrepreneur
- control over quality of educational services provided by PPP-based preschool education institutions is not regulated by any document
- lack of clear mechanisms for control, accountability, transparency and compensation in the rights and obligations of the partnership parties in organization of preschool education institutions
- lack of anti-corruption mechanisms and integrity compliance for all participants in the PPP process.

These drawbacks in the legal and institutional framework of PPP lead to high probability risks of corruption and breach of integrity, such as:

- corruption and abuse of discretionary³ power in the preparation and selection of PPP projects, and signing of agreements
- improper influence on the allocation of funding / subsidies for private entrepreneurs
- corruption in the process of reporting and monitoring of PEI activities
- improper influence by the private partner on the decisions of the public partner.

The risks were confirmed by surveys among five groups of respondents involved in the PPP process in preschool education.

Based on the findings of the survey, this report presents expert recommendations on how to improve the effectiveness of PPP programs in preschool education, modernize the project management mechanisms of PPP-based preschool education institutions, and conduct audit of the regulatory framework in order to restructure the mechanisms for organizing activities of PPP-based preschool education institutions, taking into account modern requirements for development of public relations and information technologies. Ultimately, this should contribute both to achieving the goal of expanding the coverage with preschool education, and to improving its quality, as well as ensure the effective implementation of public-private partnerships.

² For the period of the study, the Ministry of Preschool Education was the main body regulating preschool education, transformed into the Ministry of Preschool and Public Education by the Presidential Decree dated December 21, 2022 PD-269 <https://lex.uz/docs/6324798>

³ Discretionary powers are the ability of a civil servant to make, within his/her official competence, an administrative decision at his/her own discretion in cases where its boundaries are not clearly specified or there are no criteria for its application (authors' note)

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Main authors of this document are **Komol Gafurov** (National Consultant in preschool education) and **Lyudmila Stayshyunayte** (Project Manager of the Anti-Corruption Laboratory).

The authors gratefully acknowledge the following contributors for the assistance provided in preparing the document:

Akmal Burkhanov
(Director of the Anti-Corruption Agency),

Bobur Bekmurodov
(Chairman of the Nationwide Movement Yuksalish),

Abdugulom Khakimov
(Head of Department for Organization of Preschool Education Institutions Based on Public-Private Partnership of the Ministry of Preschool Education)

Sherzod Saparov
(Deputy Head of Corruption Prevention and Compliance Control Department of the Anti-Corruption Agency),

Shamshod Yunusov
(Manager for Program Development and Cooperation of the Nationwide Movement Yuksalish),

Petra Gorjup
(Head of the Regional Dialogue Branch Office in Uzbekistan),

Quentin Reed
(International Anti-Corruption Expert of the Regional Dialogue INGO, Slovenia),

Goran Klemencic
(Legal Expert of the Regional Dialogue INGO, Slovenia),

Darya Zemeseva
(Project Manager of the Regional Dialogue Branch Office in Uzbekistan),

Sardor Mamanov
(Officer of the Anti-Corruption Agency),

Shokhrukh Khakkulov
(Project Assistant of the Anti-Corruption Laboratory),

Andrey Sgurskiy
(Senior Specialist of the Public Relations Department of the Nationwide Movement Yuksalish).

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LIST OF ABBREVIATIONS

PPP – public-private partnership

PEI – preschool education institution

PE – preschool education

RCM – Resolution of the Cabinet of Ministers

PR – Presidential Resolution

PD – Presidential Decree

INGO – International Non-Governmental Organization

NGO – Non-Governmental Non-Profit Organization

Khokimiyat – local municipality/administration

BACKGROUND OF THE ISSUE

The New Uzbekistan Development Strategy, approved by the Presidential Decree No. PD-60 dated January 28, 2022, focuses on increasing the coverage of children with preschool education in 2022-2023 to 90%. While the latest data from the Ministry of Preschool Education reports that by the end of 2022 the coverage by preschool education reached 70%, and is scheduled to be brought to 80% by 2025.

FOR REFERENCE:

by the moment of establishment of the Ministry of Preschool Education in 2017, the number of preschool education institutions ⁴ in the republic was 4,893, covered about 25.4% of the total number of children aged 3-6 years.

The concept of public-private partnership has been included into the legal regulation of economic and commercial relations since 2017.

FOR REFERENCE:

public-private partnership is a legally stipulated fixed-term cooperation between a public and a private partner, which comes to pooling their resources for the implementation of a public-private partnership project ⁵.

One of the first legal acts regulating PPP relations in Uzbekistan was adopted for the preschool education system. The President signed a decree providing a number of benefits to those willing to launch a private kindergarten: exemption from taxes, customs duties, free land, buildings at zero cost, subsidies, and much more. The document also defines the forms of implementation of PPP in the given sector, while other forms can also be determined by the Cabinet of Ministers.

⁴ Comments to the Presidential Resolution dated September 9, 2017 No. PR-3261 "On measures to fundamentally improve the system of preschool education"

⁵ The Law of the Republic of Uzbekistan «On public-private partnership» was adopted on April 26, 2019

FOR REFERENCE:

Aiming to expand the coverage with preschool education, the Decree of the Cabinet of Ministers dated December 18, 2017 No. 991, incorporated a **public-private partnership mechanism** into the preschool education system, implying that the state provides financial and methodological assistance to private entrepreneurs in organizing their activities. In the future, this assistance would come to financing projects on the establishment of preschool education institutions, in the preferential allocation of land and empty buildings.




A number of legal acts were adopted to define the activities and mechanisms for organizing PEIs on the basis of PPP. Of all the permitted forms of public-private partnership in preschool education, the partnership in the form of financial, logistical and methodological support of family-based non-governmental preschool education institutions has proved to be most popular.

While other forms of PPP drew less interest among entrepreneurs. Other forms of PPP have numbered a total of **1,850** agreements ⁶.

FOR REFERENCE:

at the time of preparation of this report, the number of functioning non-governmental family-based preschool education organizations reached 21,505, and continues to grow.

Out of the ten legally approved forms of establishing a PPP-based PEI, as the preliminary study showed, the most popular forms are as follows:

-  sale of empty state property objects, including buildings of non-functioning public preschool education organizations, at a «zero» redemption value (RCM-475 ⁷);
-  implementation of public-private partnership in the form of financial support for non-governmental
-  implementation of public-private partnership in the form of financial, technical and methodological support for family-based non-governmental preschool education institutions.
- preschool education institutions established on the basis of the private partner property (PR-3651 ⁸ (p. 12) + RCM-944 ⁹);

⁶ As of November 2022

⁷ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.475, dated June 25, 2018 <https://lex.uz/docs/3794695>

⁸ Presidential Resolution No.3651, dated April 5, 2018 <https://lex.uz/docs/3610430?ONDATE=05.04.2018>

⁹ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.944, dated November 23, 2019 <https://lex.uz/docs/4603373>

Using its mandate to support reforms with involvement of the broad public, the Nationwide Movement Yuksalish, within the framework of the Anti-Corruption Laboratory project, jointly with the Anti-Corruption Agency of Uzbekistan and the International Non-Governmental Organization Regional Dialogue, conducted an independent study of the economic and institutional effectiveness of public-private partnerships in the field of preschool education.

The findings of the analysis of the current mechanism of public-private partnerships in preschool education, the conclusions and recommendations drawn

up, can be used in the development of public-private partnership development programs, specification of indicators and criteria for evaluating decisions made, as well as improving performance indicators. It is expected that the results of the study will help the Ministry of Preschool and School Education in improving the mechanisms for creating preschool education institutions using the PPP model, coordinating and monitoring their activities, as well as increasing the coverage of children with preschool education.

Public-private partnerships in the Republic of Uzbekistan have the following features:

1. Public-private partnership is carried out in the form of joint projects of private business and public resources (financial, land, empty buildings, etc.);
2. In most cases, these projects are aimed at solving social problems: education, medicine, pharmaceuticals, tourism, housing and utilities, construction and modernization of social infrastructure facilities (roads, power lines, airports), in the field of applied science, innovation and technology, provision of public services, etc.;
3. By applying the mechanisms of public-private partnership, the state solves not only social problems, including the creation of jobs, but also carries out activities for the development of small and medium-sized businesses;
4. A PPP agreement is an agreement between a public agency or a government organization and a private business entity (legal entity or individual). Within its framework, the private partner performs the functions of a public agency and/or acquires the right to use state property for commercial purposes;

5. Overwhelmingly, public-private partnership projects are inexpensive and do not require the accumulation of large financial resources;
6. PPP projects are aimed at pooling the resources of public and private partners. For example, a private partner builds and equips a kindergarten, and the state organizes the allocation of a land plot and covers part of the costs;
7. Public-private partnership mechanisms are not clearly regulated by the legal framework. Usually, when applying the concept of public-private partnership, the responsible ministry or department is instructed to develop and ensure new management methods, including public-private partnership;
8. Given the fact that public-private partnership is understood as one of the tools to address existing problems, there is no unified monitoring of activities of public-private partnerships, thereby, there is no methodology developed to increase their effectiveness.



GORAN KLEMENCIC, LEGAL EXPERT, REGIONAL DIALOGUE INGO (SLOVENIA):

Assessment of integrity and corruption risk factors is about finding ways to prevent corruption and improve the system for the common good. The lessons learned during the implementation of this project will be useful for other areas where PPP is applied. The study is not aimed at reducing the motivation for the use of PPP in preschool education, but at assessing the system based on verified quantitative and qualitative data, at making it better, and at reducing the integrity and corruption risks.

RESEARCH METHODOLOGY

The goal of research was to obtain objective and comprehensive data through the following activities:

- ✓ analysis of statistical data of the former Ministry of Preschool Education;
- ✓ review of national and international reports, publications in the media and social networks on the research topic;
- ✓ analysis of the legal and institutional framework of PPP in the system of preschool education;
- ✓ a roundtable discussion involving key participants in the PPP process, international experts, as well as political parties in order to explore all opinions on the existing issues of using PPP in preschool education;
- ✓ analysis of findings of the survey among five groups of respondents participating in the partnership process: private entrepreneurs running a preschool education institution, employees of district departments of preschool education, employees of district khokimiyats and banks, as well as parents of kindergarten children.

CHAPTER 1. LEGAL AND INSTITUTIONAL FRAMEWORK FOR PUBLIC-PRIVATE PARTNERSHIPS IN PRESCHOOL EDUCATION

The analysis showed that the current number of legal acts regulating the activities of PPP-based PEIs exceeds 50 (laws of the Republic of Uzbekistan, resolutions and decrees of the President of the Republic of Uzbekistan, resolutions and decrees of the Cabinet of Ministers of the Republic of Uzbekistan), the main of which are as follows:

Decree of the President of the Republic of Uzbekistan dated September 30, 2017 No. PD-5198 'On the establishment of the Ministry of Preschool Education'.

Decree of the President of the Republic of Uzbekistan dated September 15, 2017 No. PD-3276 'On measures for the further development of activities for the provision of non-governmental educational services', regulating the mechanisms for the implementation of PPP in establishment of non-governmental preschool education institutions.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated November 21, 2017 No. 929 'On approval of the regulation on the Ministry of Preschool Education of the Republic of Uzbekistan and the charter of the Institute for Retraining and Advanced Training of Heads and Specialists of Preschool Education Institutions', which stipulates the tasks of the Ministry to organize a network of non-governmental preschool education institutions based on PPP.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated December 18, 2017 No. 991 'On strengthening the logistical capacity of the Ministry of Preschool Education of the Republic of Uzbekistan and incorporated institutions, as well as supporting the activities of a non-governmental preschool education organizations', which regulates the mechanism for providing preferences to PPP-based preschool education institutions when paying electricity and gas bills.

Decree of the President of the Republic of Uzbekistan dated April 5, 2018 No. PD-3651 'On measures to further stimulate and develop the system of preschool

education', which specifies the forms of PPP in the field of preschool education.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated June 25, 2018 No. 475 'On measures to enable the development of public-private partnerships in the field of preschool education', stipulating the rights of the Ministry of Preschool Education, together with the Council of Ministers of the Republic of Karakalpakstan, khokimiyats of regions and the city of Tashkent in concluding trilateral PPP agreements with business entities for the sale of empty state-owned objects at zero redemption value.

Resolution of the President of the Republic of Uzbekistan dated September 30, 2018 No. PR-3955 'On measures to improve the governance system in preschool education', regulating the right to use the constructed buildings or premises of preschool education institutions for the organization of public or non-governmental preschool education institutions, including those based on the PPP, by decision of the owners of neighboring residential buildings.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated November 22, 2018 No. 944 'On measures to further expand the range of forms of public-private partnership in the field of preschool education', regulating the implementation of PPP in the form of establishment a non-governmental preschool education institution on land plots and buildings owned by a private partner.




Resolution of the President of the Republic of Uzbekistan dated May 8, 2019 No. PR-4312 'On approval of the Concept of development of preschool education system in the Republic of Uzbekistan 2030', which sets the tasks for the Ministry to develop PPP and thereby to increase the coverage, ensuring equal access of children to quality preschool education.

The Law of the Republic of Uzbekistan dated May 10, 2019 'On Public-Private Partnership', which regulates PPP relations.

The Law of the Republic of Uzbekistan dated December 16, 2019 'On preschool education and upbringing', regulating relations in the field of preschool education and upbringing, specifically, the introduction and development of PPP mechanisms aimed at expanding the network of preschool education institutions.

Resolution of the President of the Republic of Uzbekistan dated July 14, 2022 No. PR-322 'On additional measures for the further development of public-private partnerships in the field of preschool education', which determines the procedure for filling groups in kindergartens, the allocation of staff units, the compensation mechanism for the natural gas used by preschool education institutions based on PPP.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated August 2, 2022 No. 426 'On measures to simplify public-private partnership relations in the field of preschool education using modern digital technologies', regulating:

-  the procedure for monitoring the attendance of kindergarten children, and registration of the working hours of the teaching staff in PPP-based preschool education institutions;
-  the procedure for allocation of funds by the Ministry of Finance to commercial banks for the establishment of a PPP-based PEI;
-  the procedure for allocating and paying subsidies and compensations to non-governmental preschool education institutions from the state budget;

As global practice shows, PPP legislation in different countries varies significantly, while successful models are distinguished by the quality and clarity of the legal and regulatory mechanisms for subsidizing, openness of all PPP governance, monitoring, decision-making processes, as well as by integrity of regulatory bodies.

CHAPTER 2. ANALYSIS OF INTEGRITY AND CORRUPTION RISK FACTORS IN THE LEGAL AND INSTITUTIONAL FRAMEWORK OF THE SYSTEM OF FOUNDING PRESCHOOL EDUCATION INSTITUTIONS BASED ON PUBLIC-PRIVATE PARTNERSHIP

INTEGRITY AND CORRUPTION RISK FACTORS IN THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR PPP IN PRESCHOOL EDUCATION



non-transparent processes of filing and processing of applications, selection of projects, reporting mechanism, document management system, monitoring of PEI activities



lack of clear criteria for selecting projects submitted by private partners



lack of indicators and criteria for assessing the obligations assumed by the partnership participants



lack of clear mechanisms for control, accountability, transparency and compensation in the rights and obligations of the partnership parties in organization of preschool education institutions

Analysis of the regulatory and institutional framework for founding and operating PPP-based PEIs revealed the following key factors that create or increase the risks of corruption and other forms of misconduct:

2.1. THE MECHANISM OF ORGANIZATION AND OPERATION OF PPP-BASED PEIS, regulated by the Presidential Decree No. PP-3651 dated April 5, 2018, does not provide a detailed and transparent procedure of founding and organization of the activities of a PEI, including the

stage of project selection criteria, which creates the risk of arbitrary interpretation of the legislative framework, and/or corruption/undue influence on the allocation of financial support/subsidies/loans for private entrepreneurs.

2.2. DISCRETION POWERS OF THE PUBLIC PARTNER IN DECISION-MAKING The legislative framework does not define explicit powers of the public agency in decision-making at the stage of selection of PPP projects.

This creates the ground for an authorized official of the public partner to determine, at his own discretion, the terms of consideration of the submitted project. In turn, this leads to a perception among private entrepreneurs that the process is unclear and has opportunities of informal influence on the process, which creates the ground for potential risks of corruption and violation of integrity by PPP participants.

2.3. LENDING TO PPP-BASED PEIS

is organized in line with the Decree of the Cabinet of Ministers dated November 22, 2018 No. 944. The analysis of this document revealed that the application procedure, its consideration and further approval are not transparent, the requirements for the submitted documents are not standardized, there are no indicators to validate the documents. The document defines the right of the public partner to reject the submitted PPP project on the basis of a negative statement of the ecology and environment authorities, the sanitary and epidemiological service, not specifying assessment criteria. Ultimately, the process of decision making is likely exposed to a subjective approach, that is, the same document can be both approved and rejected.

2.4. THE PROVISION OF BENEFITS FOR FINANCIAL SUPPORT OF NON-GOVERNMENTAL PRESCHOOL INSTITUTIONS BASED ON PRIVATE PARTNER PROPERTY is regulated by the Presidential Decree dated April 5, 2018 No. 3651. As mentioned above, this document regulates the general procedure for relationships among

partnership participants, not specifying the mechanisms and evaluation criteria. Non-transparent procedure of studying project documentation creates prerequisites for the subjective attitude of the public partner when making decisions. The private partner, in turn, trying to influence a positive decision, is looking for opportunities of private lobbying or financial stimulation.

2.5. THE PROCEDURE FOR MONITORING THE ACTIVITIES OF PPP-BASED PEIS

is determined by the Decree of the Cabinet of Ministers dated August 2, 2022 No. 426. The document approved five provisions regulating the activities of PPP-based PEIs.

The document regulates the information system as a mechanism for prompt monitoring of check-in and check-out of employees and the attendance of children in preschool education institutions. However, the document does not stipulate the conceptual foundations of the information system, lacks the list of activities and reporting forms that are subject to proper digitalization, as well as decision-making processes on the submitted documents. There are no functional powers and rights of educational process parties. In conditions of subjective attitude of the participants in the educational process, there is a possibility of different interpretations of digital monitoring of the activities of preschool education institutions, which may lead to integrity and corruption risks.

2.6. THE MECHANISM OF DEFINING CLEAR QUALITY INDICATORS FOR EDUCATIONAL SERVICES provided by PEIs, is not stipulated by law.

The Decree of the Cabinet of Ministers dated May 13, 2019 No. 391 approved the 'Regulations on public and non-governmental preschool education institutions of common type', which stipulates the goals and objectives of preschool education institutions, the admission and withdrawal of children, staffing groups, catering, the work of a speech pathologist, measures to protect health of children, and management of the public preschool education institution. This regulation and the requirements it provides are advisory for non-governmental preschool education institutions. Given that PPP-based PEIs are partly assigned state obligations, this document cannot fully regulate and monitor the activities of such PEIs. In turn, this leads to a risk of corruption within the educational institution, in the relationship between parents and educators, educators and the administration of the PEI.

2.7. STAFFING AND ADVANCED TRAINING OF EDUCATORS AND EMPLOYEES of PPP-based preschool education institutions remain without due attention.

The regulation on the Ministry of Preschool Education of the Republic of Uzbekistan, approved by the Resolution of the Cabinet of Ministers on November 21, 2017 No. 929, provides the main functions of the Ministry «in the field of retraining and advanced training

of heads and teaching staff in the preschool education system, capable of addressing issues of education and comprehensive development of children at a high professional level, using latest pedagogical technologies and methods. The Ministry organizes certification of managerial and teaching staff in public preschool education institutions."

Due to the fact that a PPP-based preschool education institution is more of a private enterprise, the requirements set by this document are not applicable to the managerial and teaching staff of such PEIs. The competitive selection for vacant pedagogical and other positions is not regulated. The absence of requirements for education, professional skills of employees of preschool education institutions decreases the quality of educational process, and favors the risks of integrity breaches of educational process parties.

2.8. PROVISION OF METHODOLOGICAL SUPPORT FOR THE EDUCATIONAL PROCESS

in a PPP-based preschool education institution ranks among relevant issues. The Decree of the Cabinet of Ministers No. 470 dated June 7, 2019 defines a provision on the procedure for attestation and state accreditation of public and non-governmental preschool education institutions. One of the requirements comes to assessment of availability of educational, methodological, didactic materials, games and toys, fiction, reflecting national, cultural and historical values, and causing interest in reading books.

Meanwhile, the current regulatory and legal framework does not regulate the mechanism for providing educational and methodological literature to PPP-based preschool education institutions. Consequently, preschool education institutions, based on their own capacities and knowledge, purchase the literature that does not always meet the relevant standards of the 'Sanitary and hygienic requirements for maintenance, arrangement and organization of the operating mode of preschool education institutions in the Republic of Uzbekistan' protocol No. 0355-18 dated April 27, 2018. This, in turn, leads to a subjective interpretation of the results of activities to equip the preschool education institutions with educational and methodic literature.

2.9 LACK OF ANTI-CORRUPTION AND COMPLIANCE MECHANISMS FOR ALL PPP PARTIES.

The requirements for ensuring the operation of anti-corruption mechanisms are not stipulated in the regulatory framework for the organization of the activities of PPP-based preschool education institutions. Moreover, PPP agreements also do not contain provisions that ensure any anti-corruption mechanisms and guarantees for all participants in the process, including the Code of Ethics.

The same applies to management of the conflict of interest. The absence of a mechanism regulating corruption and integrity risks, as well as the absence of mandatory risk assessment procedures (including corruption ones) leads to an increase in the number of these risks, and creates the ground for the unhindered occurrence of such risks.

In addition, there is no mechanism of open and independent assessment of such risks, which in most cases leads to the fact that many of them stay unattended, and therefore, not addressed.



ERK OZBELGE, COMMERCIAL ADVISER, PPP DEVELOPMENT AGENCY UNDER THE MINISTRY OF FINANCE OF THE REPUBLIC OF UZBEKISTAN ¹⁰: "SUCCESSFUL PPP REQUIRES MEETING CERTAIN STANDARDS"

A successful PPP is largely determined by the quality of preparation of its project. The experience we have gained in other sectors shows us that as quality of preparation increases, the probability of attracting a quality investor increases, proposed price to the government decreases, and under these conditions, banks offer very competitive financing terms.

A successful PPP is the one where public and the private partner are allocated the risks that they can manage through a bankable PPP structure, laid out in a PPP contract, and banks are willing to provide loans. Of course, the selected private partner should be able to demonstrate the availability of technical experience and equity to implement the project.

Before the PPP project is launched, most of the work of the public partner is spent on preparing a project. That includes defining the project and establishing the business case for the need of such a project, defining the technical requirements, investment parameters, and service specifications, defining the revenue mechanism to be offered to the private partner, introducing policy and legislation to allow the private partner to deliver services, allocating land or state assets.

The public partner should also define the guarantees that need to be provided for such projects. They include the timely allocation of the loans as agreed, licensing, preparation of tender documents and agreements, and finally, the transparent selection of a private partner with financial and property guarantees for the initiation, implementation and completion of the project.

Since the demand risk is usually taken by the public partner, we need to identify the unmet demands, so that upon the completion, the investments could be immediately utilized to meet current and future demands.

The scope of services needs to be properly defined for the private partner. As a rule, a preschool institution provides such services as education, transportation, catering, security, IT services, cleaning, technical maintenance. The services provided by preschool education institutions may vary, and based on the focus of a PEI, experts create a financial feasibility to calculate the amount of investment provided by the private partner. This analysis is useful to estimate the annual payment that will be required by an investor who is expected to earn a reasonable return on his investment after meeting his financial obligations to repay the loan, plus interest, plus operational expenses.

¹⁰ The Public-Private Partnership Development Agency operated at the time of the study, until its liquidation in accordance with the Presidential Decree No. PD-269 dated 21 December, 2022

CHAPTER 3. CONCLUSIONS FROM THE ANALYSIS OF INTEGRITY AND CORRUPTION RISK FACTORS IN THE INSTITUTIONAL AND LEGAL FRAMEWORK

A brief overview of the regulatory framework for the functioning of PPP-based PEIs in key areas suggests the following conclusions:

1. Most of the documents defining the conditions and mechanisms for the implementation of projects on the organization of PPP-based preschool education institutions have been prepared and adopted regardless of the specifics of the relationships between legal entities and individuals. They do not spell out in detail the obligations of the parties, do not define the time frame for the obligations assumed, do not regulate the mechanisms for compensation and the mechanisms for applying sanctions in case of violations.
2. The lack of a clear definition of the decision-making powers of the public agency at the stage of competitive selection leads to imbalance of interests of the private and public partner on favor of the latter.
3. When allocating subsidies, loans, funding to PEIs of various forms of PPP, there are no indicators and criteria to assess the obligations assumed by both the public partner and the private entrepreneur.
4. The mechanism of providing additional benefits is not transparent, clear criteria for selecting applications for subsidies are not regulated.
5. The mechanism of implementing projects on the organization of PPP-based preschool education institutions, ranging from the preparation of documents to making decisions by the public agency and signing the agreement is not transparent, and does not provide an opportunity for public monitoring.
6. Ensuring the quality of educational services provided by PPP-based preschool education institutions is not regulated by any document.
7. There is no clear specification of functional responsibilities of all the key parties in this process: a public agency, khokimiyat, a partner bank, entrepreneur.
8. The regulatory framework that stipulates the rights and obligations of the parties to organize a PPP-based PEI is vague, it does not provide clearly regulated mechanisms for control, accountability, transparency and compensatory payments, the violation of which should ensure the application of legal sanctions.
9. The regulatory framework does not regulate anti-corruption mechanisms for the work of PPP-based preschool education institutions. As a result, there are no guarantees of integrity for all parties in the process.

CHAPTER 4. FINDINGS OF THE QUESTIONNAIRE SURVEY AMONG PARTICIPANTS OF THE PPP PROCESS IN PRESCHOOL EDUCATION TO ASSESS THE FACTORS AFFECTING THE EFFECTIVENESS OF PPP-BASED PRESCHOOL EDUCATION INSTITUTIONS

INTEGRITY AND CORRUPTION RISK FACTORS IN THE LEGAL AND INSTITUTIONAL FRAMEWORK OF PPP CREATE HIGH PROBABILITY OF THE FOLLOWING MISCONDUCT:



corruption and discretion powers in the preparation, selection of PPP projects, and concluding agreements



improper influence on the allocation of financial support / subsidies for private entrepreneurs



corruption in the process of reporting and monitoring of PEI activities



improper influence by the private partner on the decisions of the public partner

4.1. SAMPLING, PERCEPTION AND EXPERIENCE OF RESPONDENTS

A questionnaire survey was conducted among all participants in the PPP process in preschool education:



private entrepreneurs (heads of PPP-based preschool education institutions)



parents of kindergarten children



district, municipal divisions of preschool education



branches of partner banks



district khokimiyats

Based on the statistical data provided by the Ministry of Preschool Education, seven regions of Uzbekistan were selected for conducting surveys: Andijan, Bukhara, Kashkadarya, Samarkand, Surkhandarya, Tashkent regions and the city of Tashkent. Sampling included 24 cities, towns and rural areas:

- ✔ districts with the largest number of opened preschool education institutions in the region;
- ✔ PEIs with the largest difference between the credit funds scheduled for the organization of activities, and the actual credit funds issued;
- ✔ Preschool education institutions with the largest difference between the scheduled capacity and the actual number of children.

Three districts with the largest number of children aged three to seven years were selected in each region. In districts, nine PPP-based PEIs were selected (three for each form of PPP explored in this survey), while, presumably, the total number of respondents was 59 entrepreneurs. The detailed sampling of preschool education institutions was carried out taking into account the scheduled capacity and the actual occupancy of institutions.

As a result, overcrowded PEIs made up 51% of all selected PPP-based PEIs, and understaffed PEIs made up 19%. Due to the high enthusiasm of parents, as well as their interest in the results of this study, the scheduled number of 373 respondents grew into 413 of actual respondents.

In order to conduct interviews in the form of questionnaires and focus groups, questionnaires were compiled for each category of respondents. To explore the interest in the survey, as well as the willingness of respondents to participate in it, the prepared questionnaires were piloted in Tashkent before conducting surveys in the regions. Based on the results of piloting, the identified shortcomings were eliminated, and the questionnaires were finalized.

The survey was conducted directly in preschool education institutions and at workplaces of the respondents by means of individual interviews, and were entered into google.doc in Uzbek and Russian languages. Discussions were held with the parents of kindergarten children in focus groups. The survey engaged experienced interviewers – representatives of non-governmental non-profit organizations based in the regions, with the support of the regional divisions of the Movement Yuksalish.

Structurally, the questionnaires included the following sections:

- ✔ study of the stage of preparation of the draft project of PPP-based preschool education institution
- ✔ study of the stage of the project selection and processing of an agreement between a public and a private partner to open a preschool education institution
- ✔ study of the stage of submission of the prepared project and its processing by the public partner, according to the PPP form, chosen by the entrepreneur
- ✔ study of the stage of operation of preschool education institutions based on PPP

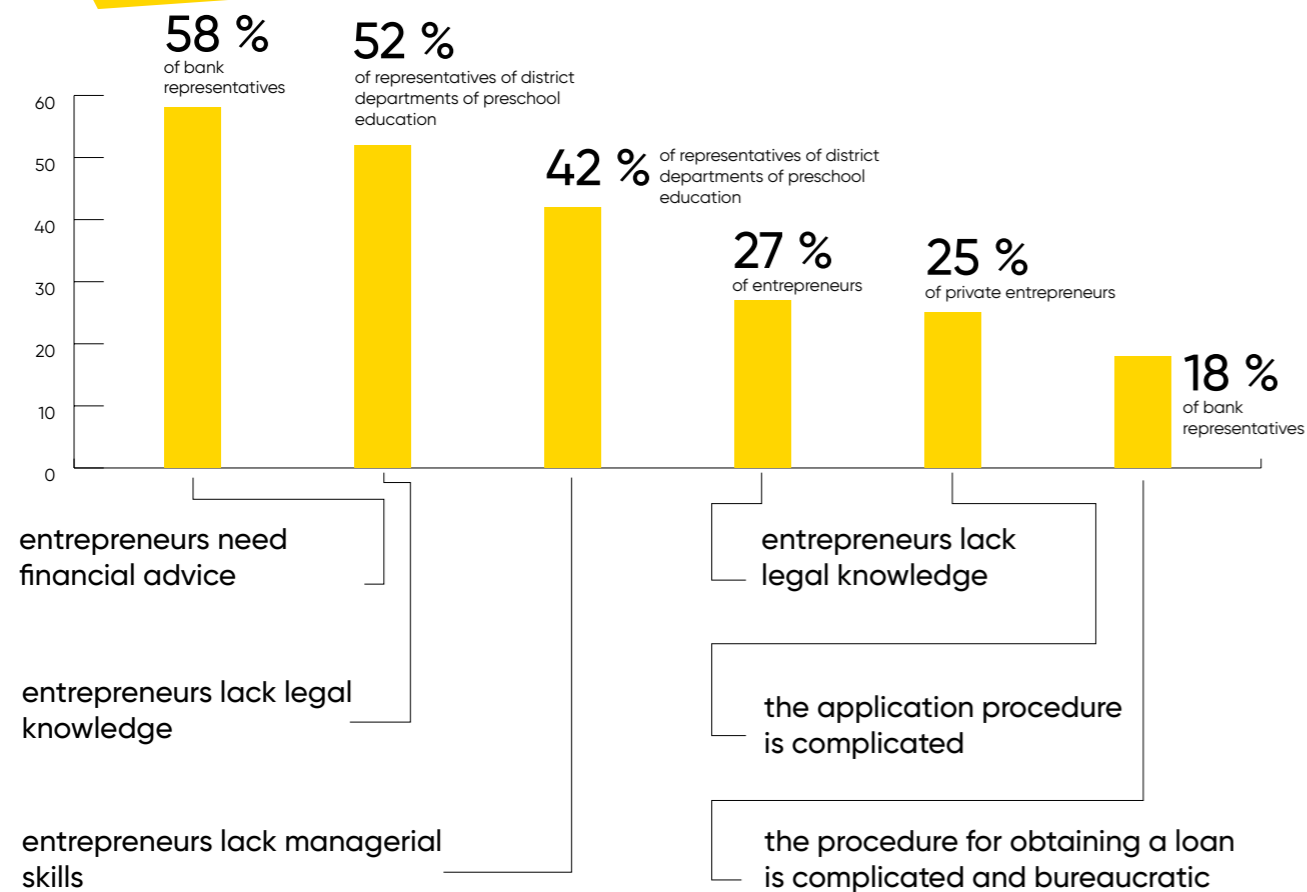
Despite the electronic and anonymized format of the survey, according to the interviewers, the majority of respondents, taking into account the scope and specifics of the surveys, were worried about their anonymity. The authors of the study believe that this factor plays a significant role in assessing the work of public agencies on PPP projects, and is seen as the rationale for the relatively low performance on key issues. Specifically, it can be expected that answers to questions about the prevalence of corruption or other negative phenomena may underrepresent the actual perceptions or experiences of respondents.

¹¹ Resolution of the President of the Republic of Uzbekistan, dated April 5, 2018 No. PR-3651

¹² The authors of this study imply competitive selection as processing the application of an individual entrepreneur for a PPP project, and not a classic tender, as is the case with public procurement

4.2. STAGE OF PREPARATION OF THE PROJECT OF A PPP-BASED PRESCHOOL EDUCATION INSTITUTION.

COMPLICATED PROCEDURE OF APPLICATION FOR OPENING A PPP-BASED PEI, AND OBTAINING A LOAN



The analysis shows that almost all groups of respondents participating in the survey pointed out to difficulties in preparing project documentation for PPP-based preschool education institutions, and to the need for additional financial and legal advice in the preparation and submission of project documents.

To the question "Have you received all the information you needed about participation in the competition for opening a PPP-based PEI?" every fourth private entrepreneur who submitted documents for the selection answered that he/she did not receive the necessary

information, or that the information was insufficient and difficult to comprehend.

During the study of cases on the issues challenging entrepreneurs, as well as a roundtable discussion at the preliminary stage of the study, entrepreneurs pointed out to the difficulties in preparing PPP projects.

Over 25% of private entrepreneurs see the application procedure complicated. More than 52% of representatives of regional divisions of preschool education believe that a private entrepreneur

needs additional legal knowledge, more than 42% point out to the need to attract a management specialist to help entrepreneurs in doing business.

More than 58% of bank representatives indicated that private entrepreneurs ask for financial advice when preparing the financial reference of the project. Moreover, 25% of the surveyed bank employees consider the loan obtaining procedure difficult and highly bureaucratic.

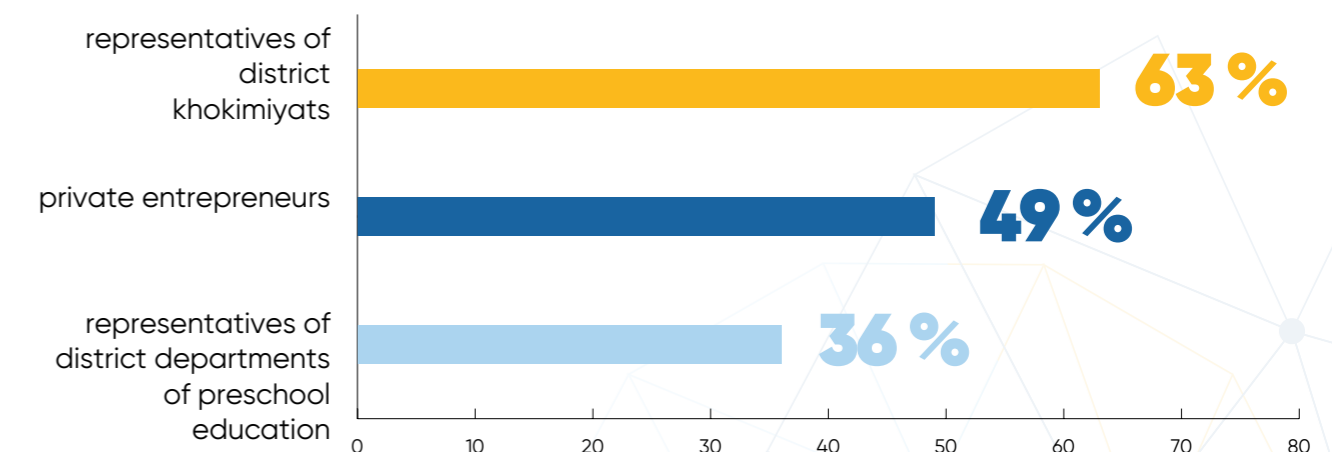
In the course of analyzing the mechanism of preparatory work, the questionnaire survey also studied the opinions of respondents regarding the degree of engagement of the PPP parties in the working process. So, for example, more than 27% of entrepreneurs believe that representatives of district departments of preschool education are indifferent to the development of the social infrastructure of their district (makhalla), while this is their direct responsibility, and they

perform their official duties superficially (box-ticking). 39% of entrepreneurs claim that representatives of local authorities – khokimiyats, who bear responsibility for social development in their area (mahalla), are indifferent to their duties and perform them superficially.

Every third entrepreneur believes that some tenders¹³ are held not for the purpose of meeting social goals, but for the purpose of illegal utilization of budget funds. This suggests the lack of motivation of public agencies in observing the principles of integrity in the development of budget funds.

Moreover, nearly a third (29%) of private entrepreneurs see the members of the project selection commission as incompetent in assessing the financial and practical component of the proposed project, while 22% of respondents consider the selection commission to be incompetent as a whole.

NEED FOR SIMPLIFYING APPLICATION AND DOCUMENT PROCESSING PROCEDURES REPORTED BY



¹³ The term «tender» was used in the questionnaires for the convenience of respondents, but the process itself, as such, is not a tender, but rather a process of formal approval of a project proposal submitted by an entrepreneur (authors' note)

REASONS OF PROCEDURAL COMPLICATIONS OF INTEGRITY AND CORRUPTION RISK FACTORS

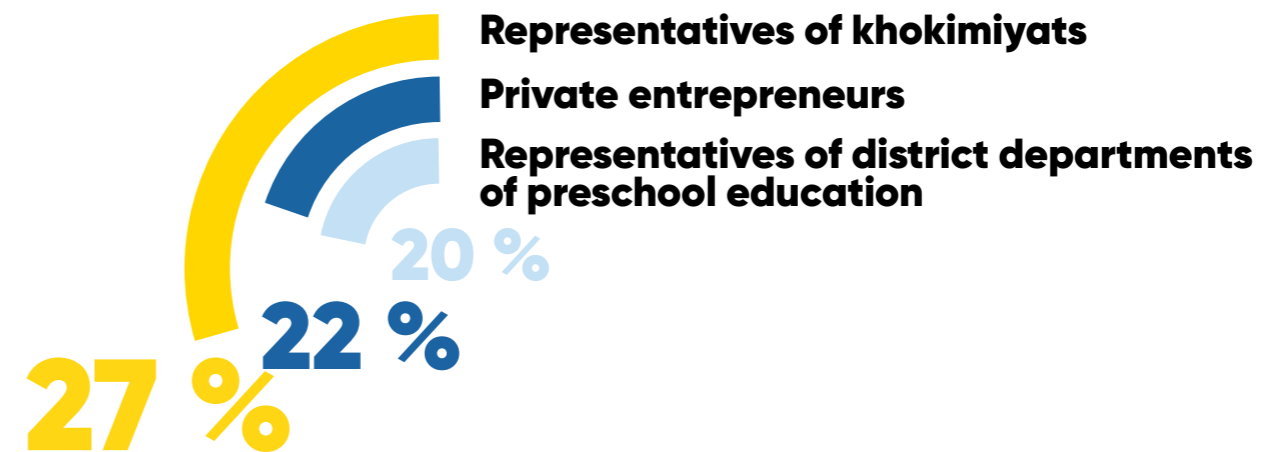
- ✔ discretionary powers of public agencies in the application and document processing procedures are not limited by legal norms
- ✔ absence of accessible, open and clear information about establishment of PPP
- ✔ incompetence of private partners in preparing documents
- ✔ low accountability and diluted oversight functions in document processing
- ✔ unawareness of participants about sanctions in violation of the rules
- ✔ non-transparent procedures
- ✔ opportunity to influence the person receiving the documents

4.3. PROJECT SELECTION STAGE

More than half of the interviewed entrepreneurs (53%) answered that the selection process is not open or objective. Most of those who participated in the competition for the allocation of an idle state property at zero redemption value noted that they had to bring in personal contacts in order to find out the results of the selection. The participants do not have access to information about the selection criteria. 70% of the interviewed entrepreneurs have no idea about the procedure for appealing against the decision of the commission.

Over 42% of representatives of regional departments of preschool education claim that the selection of projects is held behind the scenes, in absence of private entrepreneurs, who have submitted their projects for competitive selection. More than 45% of the interviewed representatives of khokimiyats indicated that they do not participate in the work of the selection commission. 74% of the interviewed representatives of district departments of preschool education stated that the project selection procedure needs to be streamlined. They propose the introduction of an open information system as the major mechanism to ensure openness.

INFLUENCE ON THE DECISIONS OF THE SELECTION COMMISSION BY PERSONAL CONTACTS



4.4. STAGE OF SIGNING AN AGREEMENT BETWEEN THE PUBLIC AGENCY AND ENTREPRENEURS IN ORGANIZING A PPP-BASED PEI

To study the process of signing agreements between public and private partners, the questionnaires included questions regarding the timing and degree of responsibility when signing the PPP agreements.

In response to a question about drawbacks in the mechanisms of processing agreements on the organization of PPP-based preschool institutions, private entrepreneurs pointed to the inequality factors between the requirements of the public partner and the conditions of the private partner.

For instance, 15% of private entrepreneurs answered that the priority in the process of signing agreements is mainly given to the requirements of the public partner, and the conditions of private partners are not always taken into account. 20% of private entrepreneurs believe that the agreements define unrealistic terms for the implementation of the project, and

more than 35% of entrepreneurs say that the agreements do not take into account the financial risks of the private partner.

Over 49% of private entrepreneurs see the need to streamline the regulatory framework in terms of simplifying the procedure for signing a PPP agreement, 39% of respondents believe that it is necessary to organize legal and financial consulting assistance to private entrepreneurs, 28% of respondents consider it necessary to introduce a transparent information system for document management, monitoring and reporting.

On this issue, over 36% of representatives of district departments of preschool education and 63% of representatives of district khokimiyats spoke in favor of improving the legal framework in terms of simplifying the procedure for signing a PPP agreement.

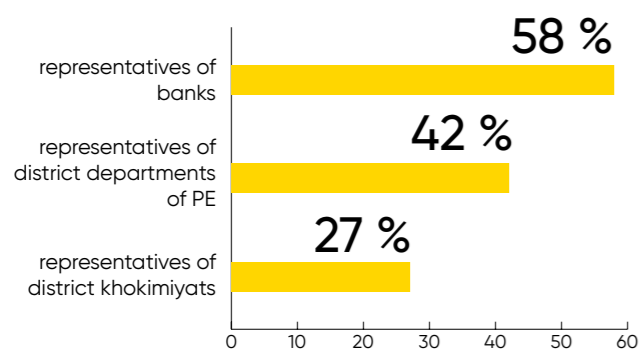
More than 42% of representatives of district departments of preschool education and 33% of representatives of banks also spoke about the unrealistic timing of PPP projects.

47% of entrepreneurs reported of changes made by public partners unilaterally in already signed agreements, without consent of private entrepreneurs.

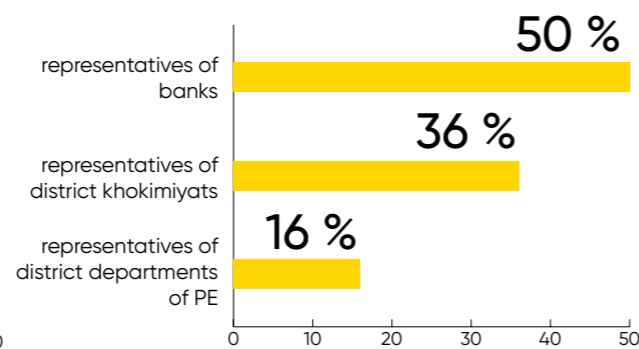
4.5. STAGE OF OPERATING PPP-BASED PRESCHOOL EDUCATION INSTITUTIONS

INCONSISTENCIES CAUSED BY POOR PREPARATION OF ENTREPRENEURS

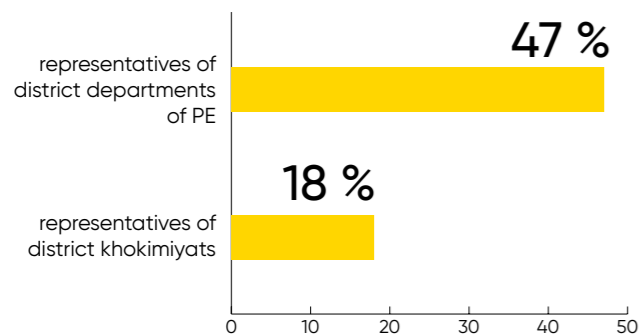
PRIVATE ENTREPRENEURS HAVE INCONSISTENCIES IN FINANCIAL ACTIVITIES



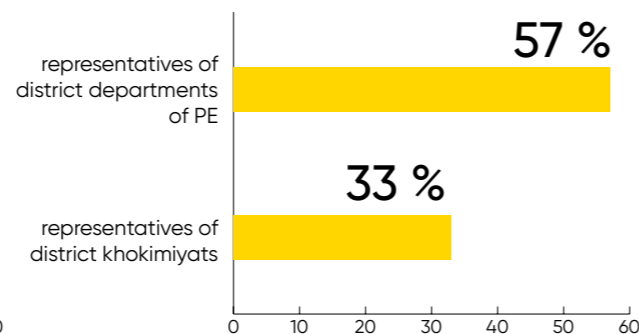
PRIVATE ENTREPRENEURS VIOLATE REPORTING REQUIREMENTS



PRIVATE ENTREPRENEURS ARE INCOMPETENT IN PEDAGOGY



PRIVATE ENTREPRENEURS HAVE INCONSISTENCIES IN MANAGEMENT AND HUMAN RESOURCE ISSUES



Drawbacks in the activities of preschool education institutions. Over 36% of representatives of district khokimiyats claim that in the course of operation of PPP-based PEIs a private entrepreneur violates reporting requirements, and more than 27% of respondents of this target group report of financial violations in the work of entrepreneurs. According to 47% of representatives of district departments of preschool education, private entrepreneurs are incompetent in pedagogy, 42% believe that entrepreneurs have inconsistencies in financial activities, more than 36% are incompetent in recruitment issues, and more than 31% report of violation of ethical standards by entrepreneurs. According to more than 58% of bank representatives, private entrepreneurs mainly make mistakes in financial activities, 50% - in reporting, more than 33% - in human resources policies and management of preschool education institutions.

To the question about the procedure of monitoring of the activities of preschool education institutions over 52% of representatives of district departments of preschool education and 54% of representatives of district khokimiyats answered that each public agency responsible for the activities of preschool education institutions monitors their activities independently ¹⁴.

Also, in the course of a preliminary study of the operation of PPP-based preschool education institutions in the field, respondents spoke about an excessive number of various forms of reporting to various government bodies. There were views about the complexity and heterogeneity in the requirements for the provision of reporting.

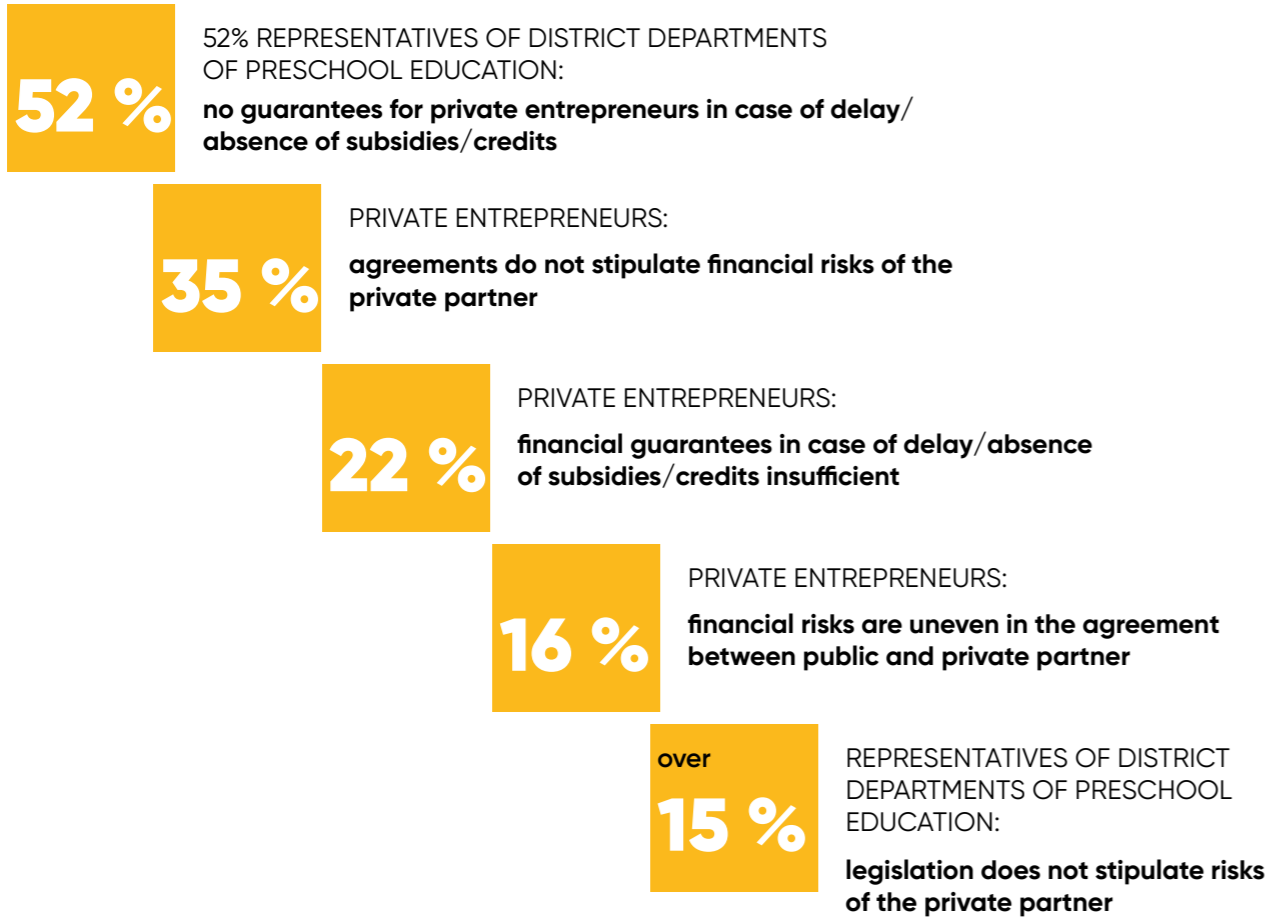
Delay in subsidy payments. The process of payment of subsidies under the concluded agreements ranks among the key issues of this study. The survey showed that late payment of subsidies is a burning issue for private entrepreneurs. Certain respondents suggested withdrawing non-governmental kindergarten projects from public-private partnerships.

The findings showed that 36% of representatives of khokimiyats, more than 31% of representatives of district departments of preschool education, and 25% of representatives of banks told about late payment of subsidies under signed agreements. Meanwhile, 25% of private entrepreneurs believe that the established time frame for receiving subsidies after the decision of the project selection commission is delayed due to the incompetence of the public partner.

In turn, every second (52%) representative of the district departments of preschool education claims that there are no guarantees for a private partner in case of delay/absence of subsidies/credits, and compensations/fines/forfeits are not stipulated.

¹⁴ Unlike foreign experience, when PPP projects are monitored by independent inspections (authors' note)

RISKS CHALLENGING PRIVATE ENTREPRENEURS



Inefficient attendance monitoring system. In order to ensure monitoring of children's attendance in preschool education institutions based on PPP, the public partner introduced an electronic management system for non-governmental preschool education institutions.

Over 26% of representatives of district departments of preschool education report about cases of overstatement of the real number of children in kindergarten by a private entrepreneur in order to obtain additional subsidies. Whereas more than 28% of private entrepreneurs and 37% of representatives of district departments of preschool education provided negative answers

to the question about the effectiveness of the attendance monitoring system, and over 27% of private entrepreneurs are convinced that the system does not work. 32% of representatives of district departments of preschool education speak about the need for technical improvement of the program, while the other 30% believe in the need to introduce a different tool of attendance monitoring.

Lack of anti-corruption provisions. One in five (21%) entrepreneurs and one in six (18%) employees of the khokimiyat report of the need to include anti-corruption provisions and mechanisms to combat corruption and integrity breaches in the rules regulating PPP in

the field of preschool education. More than 54% of representatives of district khokimiyats propose to entrust control over the implementation of ethical and anti-corruption standards in organizing the activities of PPP-based preschool education institutions to the Anti-Corruption Agency, more than 27% - to the Ministry of Preschool and Public Education and its divisions, more than 9% - to an independent private company audit, the corresponding department in the district khokimiyat, to mahalla or parents.

68% of representatives of district departments of preschool education have no idea whether any sanctions are provided for a public partner if he violates the rules of integrity when interacting with a private entrepreneur. 73% do not know if such sanctions exist for entrepreneurs. 20% of representatives of district departments of preschool education report that an entrepreneur can influence members of the selection committee through personal contacts, personal services / assistance to a member of the selection commission. A third of private entrepreneurs reported of cases of conflict of interest when addressing operational issues between a private and public partner.

CHAPTER 5. CONCLUSIONS FROM THE ASSESSMENT OF CORRUPTION AND INTEGRITY RISK FACTORS BASED ON THE SURVEY

Based on the findings of a questionnaire survey among all participants in the PPP process in preschool education to assess the factors influencing the effectiveness of PPP-based preschool education institutions, it can be noted that:

1. The absence of mandatory mechanisms to ensure openness and transparency leads to misunderstanding in the preparation of project documentation and its submission to the commission, and to the formation of a perception among private entrepreneurs and society as a whole about the unfairness of the process and the risks of dishonest behavior of the

partnership parties. At the same time, in conversations with private entrepreneurs, several people admitted that the decision of the commission could be influenced by private partners through monetary rewards, which is an integrity and corruption risk.

2. Discretionary powers of employees of public agencies in the process of receiving documents from private partners for participation in PPP are not regulated by the legal norm. Moreover, there is no regulating mechanism for conflict of interest, there is no mechanism for detecting violations and applying sanctions for violation of integrity rules. The existing legislative norms and mechanisms to combat corruption are applied extremely limitedly in the practice of organization of PPP-based PEIs. There is no mechanism for reporting dishonest and corrupt behavior, both for the public and private partner, which is why this method of combating corruption is hardly applied by the parties. Hence, other illegal activities may be used to circumvent official norms and, thereby, leads to the integrity and corruption risks.
3. A superficial attitude to one's official duties leads to a decrease in accountability and weakens the function of supervising the document processing, the fulfillment of the obligations of the PPP parties. This, as well as the incompetence of the representatives of the public partner, according to private entrepreneurs, is the reason for the late payment of subsidies under the signed agreements.
4. Lack of available, open and easy-to-understand information about the procedures on the establishment of a PPP-based PEI, about the documents and stages needed to organize work is a factor of integrity and corruption risks, because it entails the need to obtain and conduct additional consultations between the private partner and public authorities, and may represent potential risks of dishonest and corrupt behavior on both sides.
5. Non-compliance with the established standards for concluding an agreement, unauthorized revision and unilateral amendments to previously signed agreements by the public partner lead to the formation of distrust of the private partner towards the public partner, who in such cases is not responsible for non-compliance with the norms prescribed by law. Thus, this circumstance creates a perception in the private partner about the possibility of similar, mutual behavior, which leads to the emergence of integrity and corruption risks.

6. A private entrepreneur, in the eyes of the state partner, is not always competent and has inconsistencies in managerial, financial, pedagogical, staff-related activities, as well as in certain forms of reporting. This causes corruption risks on the part of a private entrepreneur, specifically, the tendency to resolve an issue bypassing the established regulatory requirements.
 7. The fact that each public agency sets its own reporting requirements forces a private entrepreneur to prepare different forms of reporting and personally report to each body separately, which requires additional time and administrative costs, and creates an additional incentive to reduce those costs in informal and illegal ways. This circumstance is a risk factor that can lead to integrity breaches and corrupt behavior on both sides.
 8. Ineffective operation of the digital preschool education management system, as polls have shown, entails a feeling of distrust not only among entrepreneurs, but also among all participants in the educational process. In practice, this generates a risk of a human factor in addressing organizational issues of monitoring both in relations between parents and administration, and between private and public partners.
 9. No requirements ensuring the operation of anti-corruption mechanisms are stipulated in the regulatory framework on the organization of activities of PPP-based preschool education institutions. Moreover, PPP agreements also do not contain provisions that ensure anti-corruption mechanisms and compliance for all participants in the process, including the Code of Ethics. The same applies to provisions regulating conflict of interest. The absence of a mechanism of corruption and integrity risk management, as well as the absence of mandatory risk assessment procedures (including corruption risks) leads to an increase in risks and creates a prerequisite for their unimpeded occurrence.
- In addition, there is no mechanism for an open and independent assessment of such risks, which in most cases leads to the fact that many of them remain unnoticed, and therefore unaddressed.

CHAPTER 6. RECOMMENDATIONS

Based on the institutional and legal analysis, the findings from interviews and focus group discussions of participants in the educational process of PPP-based preschool education institutions, aiming at raising the effectiveness of anti-corruption measures in organizing their activities, and at reducing corruption risks and integrity breaches, the Anti-Corruption Laboratory proposes as follows:

1. To the Cabinet of Ministers of the Republic of Uzbekistan: development and implementation of a mechanism that would ensure a **maximum openness in the organization of the activities of a PPP-based PEI**, at the stage of preparing and submitting project documentation, the consideration and selection of documents, announcing the results and signing agreements, monitoring the activities of the PEI, delivery of reporting and attendance records. It is proposed to integrate all of the above functions in an **electronic PPP project management platform**, managed by the Ministry of Preschool and Public Education, and providing reliable protection of personal data. The platform should be integrated with key participating agencies: the State Tax and Customs Committees, the Ministry of Poverty Reduction and Employment, the Agency of Statistics, Cadastre Agency, State Assets Management Committee, banks. It is advisable to assign a responsible employee in the Ministry of Preschool and Public Education in order to ensure the **effective operation of this platform**. The platform can be applied to PPP projects in any sector.
2. To the Cabinet of Ministers of the Republic of Uzbekistan: **preparation of proposals to restructure the mechanisms of organizing the activities of PPP-based preschool education institutions**, with an eye to modern requirements for the development of public relations (open management systems, introduction of evaluation indicators), information technologies (digitalization of project preparation, selection, monitoring of the activities of preschool education institutions), taking into account market pricing for services provided, and indexation of subsidies.
3. To the Cabinet of Ministers of the Republic of Uzbekistan: **introduce a public monitoring mechanism** for all processes in founding and operating PPP-based PEIs in order to ensure an external independent audit, by mahalla for example, as well as **define specific evaluation criteria (indicators)**.
4. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to **regulate the selection criteria** for PPP projects in preschool education, submitted by private entrepreneurs.

5. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to **clearly define the rights, duties and responsibilities** of private entrepreneurs, relevant departments of the Ministry of Preschool and Public Education, khokimiyats, partner banks, as well as bodies licensing and monitoring the activities of PPP-based preschool education institutions, in new editions of the related regulatory framework.
6. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to **clearly define the degree of responsibility**, appointment of additional benefits for effectiveness, and/or appointment of sanction mechanisms for identified violations. **Adopt ethical standards and integrity guidelines.**
7. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to determine **the lowest acceptable benchmark for educational services** for PPP-based preschool education institutions, and introduce criteria/**evaluation indicators of the educational process, powers, rights and obligations for all participants**, in order to ensure effective monitoring of the activities of preschool education institutions, and quality of educational process.
8. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to **redesign the entire system of monitoring the activities of PPP-based preschool education institutions**, introduce public oversight mechanisms, align and standardize a unified format for all types of reporting for all public agencies, ensure the publication of reporting **in open data format to prevent occurrence of corruption risks.**
9. To the Ministry of Preschool and Public Education of the Republic of Uzbekistan: to **organize advanced training courses** on management, financing, legal, pedagogical literacy, building effective interpersonal relationships with all participants in the process (private entrepreneurs, administration and employees of preschool education institutions, relevant representatives of public agencies) **responsible for the organization of PPP-based preschool education institutions** in order to advance their professional competence.

