PUBLIC-PRIVATE PARTNERSHIP DEVELOPMENT PROGRAM (P3DP) IN UKRAINE

QUARTERLY REPORT: OCTOBER 1 – DECEMBER 31, 2014

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<tr>
<td>AMDI</td>
<td>Agriculture Marketing and Development Institute</td>
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<td>AMC</td>
<td>Anti-Monopoly Committee of Ukraine</td>
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<td>AmCham</td>
<td>American Chamber of Commerce</td>
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<tr>
<td>ARC</td>
<td>Autonomous Republic of Crimea</td>
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<td>AUC</td>
<td>Association of Ukrainian Cities</td>
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<td>BOO</td>
<td>Build-Own-Operate</td>
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<td>BOT</td>
<td>Build-Operate</td>
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<td>BPP</td>
<td>Biomass Power Plant</td>
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<td>CCDS</td>
<td>Climate Change and Development Strategy</td>
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<td>CLC</td>
<td>Commercial Law Centre</td>
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<td>CMU</td>
<td>Cabinet of Ministers of Ukraine</td>
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<td>COM</td>
<td>Cabinet of Ministers</td>
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<td>DBFO</td>
<td>Design-Build-Finance-Operate</td>
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<td>DESPRO</td>
<td>Swiss-Ukrainian Decentralization Support Project</td>
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<td>DFait</td>
<td>Canadian Department of Foreign Affairs and International Trade</td>
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<td>EBRD</td>
<td>European Bank of Reconstruction and Redevelopment</td>
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<td>EC-LEDS</td>
<td>Enhancing Capacity for Low Emission Development Strategies</td>
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<td>EEF</td>
<td>Eastern European Foundation</td>
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<td>GDP</td>
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<td>Greenhouse gas</td>
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<td>GIZ</td>
<td>Deutsche Gesellschaft für Internationale Zusammenarbeit</td>
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<td>Government of Ukraine</td>
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<td>IBRD</td>
<td>International Bank for Reconstruction and Development</td>
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<td>Institute for Budgetary and Socio-Economic Research</td>
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<td>IFC</td>
<td>International Financial Corporation</td>
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<td>Kyiv Economic Institute</td>
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<td>Kyiv City State Administration</td>
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<td>Municipal Heating Reform</td>
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MOEDT ................................................. Ministry of Economic Development and Trade
MRDCH ............................................. Ministry of Regional Development, Construction and Housing
MLC .......................................................... Municipal Law Center
MSFI .......................................................... Municipal Finance Strengthening Initiative
NAESCO .................................................. National Association of Energy Service Companies
NAPA .......................................................... National Academy of Public Administration
NATO ......................................................... North Atlantic Treaty Organization
NCCSR ...................................................... National Commission of Communal Services Regulation
NCMSR .................................................... National Commission on Municipal Services Regulation
NGO .......................................................... Non-Governmental Organization
NPA .......................................................... National Project Agency
OECD ........................................................ Organization for Economic Co-operation and Development
OSCE ........................................................ Organization for Security and Cooperation in Europe
PIEC .......................................................... PPP & Infrastructure Expert Center
PPP .......................................................... Public-Private Partnership
P3DP ........................................................ Public-Private Partnership Development Project
REC .......................................................... Regional Environmental Centre for Central and Eastern Europe
REDS ........................................................ Resource Efficient Development Strategy
ROT .......................................................... Rehabilitate-Operate-Transfer
RT ............................................................. Round Table
SIP ............................................................ [PPP development] Strategy Implementation Plan
SME .......................................................... Small and Medium Enterprises
SPA .......................................................... State Property Agency
SWM .......................................................... Solid Waste Management
TA ............................................................. Technical Assistance
U-Media ...................................................... USAID’s Strengthening Independent Media in Ukraine
UNDP ........................................................ United Nations Development Program
UNECE ..................................................... United Nations Economic Commission for Europe
UNEP ........................................................ United Nations Environment Program
UNITER ...................................................... National Initiatives to Enhance Reforms
USAID ....................................................... United States Agency for International Development
USUBC ...................................................... USUBC
VRU .......................................................... Verkhovna Rada of Ukraine (Parliament)
WB ............................................................. World Bank
WG ............................................................. Working Group
EXECUTIVE SUMMARY

The beginning of the 5th year of the Public-Private Partnership Development Program saw a continuation of Ukraine’s acute economic crisis, political instability, and armed conflict. A promising development, however, was the election of a new, pro-reform Parliament. Although immediate-term prospects for PPPs remain challenging, the long-term outlook for PPPs becoming essential tools used by municipal and government leaders is promising for several reasons:

- Infrastructure is outdated, in poor repair, or war-damaged and requires significant investment;
- Government is acutely short of funds and expertise, and cannot improve infrastructure or public services without private sector participation;
- Officials are increasingly aware of the benefits of PPPs and have expressed a clear interest in utilizing them;
- PPP regulatory and legal environment in Ukraine, though imperfect and needing more reforms, is functional. This is demonstrated by the Malyn Biofuel Heating PPP, which is already providing heat to schools.

On the legislative front, P3DP scored a significant policy success with the adoption of amendments developed, recommended and advocated by P3DP to CMU Decree #384, On Efficiency Analysis and Tender Procedures of Public-Private Partnerships. In addition to PPP Framework legislation, P3DP laid the groundwork for further legislative wins in 2015 by preparing and submitting important proposed amendments to legislation and decrees, such as risk assessment, PPP process simplification, concession fee calculation, and solid waste management tariffs.

Municipalities and regions are increasingly showing interest in PPPs by adopting formal PPP policies and incorporating them into their economic development strategies. P3DP has provided advice the to the Kyiv City State Administration’s draft PPP Policy and Implementation Plan. The approach, if successful, can be expected to be replicated in other Ukrainian municipalities. E-Government is also of growing interest and is likely to adopt a PPP-based methodology for components of its implementation. Legislation to enable this has already been drafted with P3DP input. Multiple other cities, such as Cherkassy and Kharkiv, approached P3DP for assistance in incorporating PPPs into their development strategies.

During this period, P3DP created PPP resources and training materials in the Ukrainian language drawing from practical experience gained during the first four years of the Program. These contribute to the sustainability of PPPs as a tool for improving public services, mitigating climate change, promoting decentralization, and stimulating economic growth. P3DP also will be preparing good practice contracts and bid documents. As a result of P3DP assistance, agencies and institutions such as MOEDT’s PPP Unit, the PPP and Infrastructure Expert Center
(PIEC) and educational institutions are disseminating advice and knowledge about PPPs to municipal governments, businesses, and other stakeholders.

PPP pilots that serve as demonstration projects have also begun to provide real benefits to Ukrainian citizens. In Malyn, Zhytomyr Region, children benefit from warm classrooms in schools heated with renewable biofuel. In addition to cost savings to the municipality, this model is reducing greenhouse gasses and Ukrainian imports of Russian natural gas, thereby increasing Ukraine’s energy independence. In Kyiv, the population has better access to safe, modern recreational facilities through a PPP. Further benefits are expected in 2015 when landfill gas power generation PPPs come online in Vinnytsia and Ivano-Frankivsk. Healthcare and education PPPs continue to be developed in Zhytomyr and Kyiv. Each of these projects can be replicated in other municipalities and provide lessons for improving the overall environment for PPPs. It should be emphasized that the practical experiences and knowledge gained through the actual development of the pilot PPP projects have proven essential to improving the overall PPP legislative and regulatory environment in Ukraine, as well as contributing to increasing the awareness and PPP capacity of key stakeholders.

Throughout the remaining period of the program, P3DP will continue to work on improving the PPP legislative and regulatory environment and implementing pilot PPPs. A special effort will be made to accelerate the PPP development process by tailoring the requirements for feasibility studies and related risk assessment and appraisal procedures. Awareness and capacity development activities will increase as lessons learned through practical experiences are used to develop PPP case studies, courses, videos, and materials that guide municipalities in their development of PPP feasibility studies, bidding documents, and agreements. In addition to continuing P3DP support to the MOEDT and municipalities, work with education and training partners will “institutionalize” gained knowledge and resources so they can support future efforts to promote and implement PPPs in Ukraine. In addition to multiple PIEC events, P3DP will intensify and broaden the outreach to Ukrainian municipalities through regional and municipal events outside of current partner cities to stimulate new PPP initiatives and increase replication of PPP pilots. P3DP will also work toward reducing corruption through tailored trainings and greater cooperation with media. Proposal competition commissions will be more closely engaged and provided tools to guide their evaluation and selection of appropriate partners to reduce corruption and improve public procurement practices.

For additional details of this reporting period’s activities and results, see Annex 1- the P3DP Y5Q1 Performance Monitoring Report. To see more information regarding upcoming activity, see Year 5 Workplan or the Addendum to the P3DP Year 5 Workplan included in this report as Annex 2.
INTRODUCTION

Ukraine will not quickly or easily solve the multitude of problems it faces today. The country is near default, the investment climate is exceedingly weak, corruption is still rampant and the war with Russia is distracting government from reform while draining its limited finances. But these factors have also created an urgent need for private sector participation in improving infrastructure and key public services: the Government of Ukraine and municipalities throughout the country desperately needs private sector financial, managerial and technical resources.

The accomplishments of Public-Private Partnership Development Program (P3DP) have been notable in an environment unfriendly to PPPs. P3DP has succeeded in:

- Supporting the establishment of the MOEDT’s PPP Unit, including definition of its role and responsibilities and assistance in creating a process for PPP implementation;
- Developing a National PPP Policy and making improvements to PPP legislation;
- Raising awareness of PPPs as a tool for improving infrastructure and public services;
- Completion of two pilot PPP projects and significant progress on five more;
- Development of Ukrainian-language resources and training materials on PPPs; and
- Establishment of the PPP & Infrastructure Expert Center, which provides a sustainable platform for public-private dialogue on PPP issues.

During this reporting period, P3DP began to increase capacity development and knowledge capture activities to take advantage of lessons learned through practical experience in the first four years. Additionally, the accumulated knowledge through practical experience are now being captured and disseminated through:

- Guidance notes on PPP-related topics;
- PPP Sector Papers, which provide insights to developing PPPs in key infrastructure and public service sectors;
- Education tools – PPP Case studies, teaching guides and courses, including an online course.

These tools and work with educational and training institutions are creating a sustainable framework of PPP knowledge resources and support for officials from central, regional and municipal governments who want to engage the private sector in providing infrastructure and public services. P3DP accelerated this work during the first quarter of Year 5 and will continue this momentum in Q2.

P3DP is continuing efforts to improve the legislative and regulatory environment and, despite the turbulent political environment and ongoing conflict, the PPP pilots are progressing toward tendering. This “learning by doing” plays an essential role in identifying gaps in the legislative environment and recognizing areas needing improvement in the investment climate. Additionally, the PPP pilots, being in multiple sectors, contribute to the growing interest of municipal leaders throughout Ukraine as P3DP reaches out to new communities.
OBJECTIVE 1: IMPROVING THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR PPPS

Since the Maidan protests began in November 2013, Ukraine has faced tremendous political, social and economic challenges. The president, ministers, and many members of parliament are new. Lustration, reorganization, and staff reductions impacted most ministries. Reforms have begun but are being implemented slowly, as the government is distracted by war and the possibility of default. Risks and the challenges of doing business in Ukraine are perceived by many as being worse than it has been in many years.

However, accompanying the chaos and changes are new opportunities for real regulatory and legislative reform. In response, P3DP significantly increased the level of technical assistance targeting the legal, regulatory and institutional framework for PPPs, as well as the framework and practices of procurement of contracts. These efforts are aligned with the new government’s priorities, which include attracting investment, reducing corruption, and improving the investment climate in Ukraine.

P3DP’s work under this objective is in part guided by the baseline study conducted early in the project, a deep assessment of legislative and regulatory obstacles and institutional constraints to PPPs; and in part by practical experience of obstacles encountered during implementation of the PPP pilot projects. Because of P3DP’s work during the last four years, the legislative framework and institutional support for PPP development in Ukraine continues to improve, as evidenced by the growing number of agencies and municipalities working to engage the private sector to improve infrastructure and public services. But continued efforts to improve the PPP legal and institutional framework are needed, as highlighted by Kyiv Economic Institute’s mid-term P3DP stakeholder survey.1

Additionally, PPPs were included in the GOU Action Plan for 2014-17. The new GOU Coalition Agreement, which identifies priorities, strategy and future actions of government, mentions PPPs seven times. The Action Plan also contains PPP-related provisions addressing decentralization, long-term budget commitments, strengthening of local governance, roads and education, as well as being mentioned specifically as a viable tool to address challenges in the health sector. Many of these initiatives were proposed by P3DP to be included in the GOU plans.

P3DP is well-positioned to support the GOU as it works toward creating a more clear and stable legal environment needed to attract more investment, increase lending, and improve the viability of PPPs.

1 According to the 2014 KEI survey of over 200 stakeholders, the most frequently mentioned reasons for PPPs’ not being used in Ukraine in 2014, as well as in 2011, included legal and regulatory problems. It was recommended that P3DP continue efforts in harmonization of the legal framework to remove inconsistencies and contradictions in the existing laws, as well as working to decentralize the decision making processes.
1.1 Improving the Legal Framework for PPPs

Monitoring the PPP Legislative Environment

P3DP monitored activities in the legislative environment that affect PPPs throughout the reporting period and shared them with USAID in monthly Legislation Development Assessment Reports. Legislative priorities have become more acute because of severe energy and budgetary crises. Key issues include:

- Shortcomings in the PPP Law and related legislation that discourage use of PPPs, such as risk assessment methodology and tender procedures;
- Inadequate “green tariff” regulations that can provide incentives for private investment needed to take advantage of alternate fuel sources or improve energy efficiency;
- Tariff issues, from economic viability to assigning responsibility to proper authorities;
- Lengthy and complex PPP processing procedures.

P3DP will continue to monitor the legislative environment for PPPs and will address priority and any newly-identified issues if feasible.

PPP Concept, Development Strategy, and Implementation Plan

Previously, P3DP assisted GOU policymakers in creating a PPP framework consisting of a PPP Development Concept, the National PPP Strategy, and a Strategic Implementation Plan (SIP). The Concept, which was approved in 2013 under CMU Decree #739, laid the foundation for further PPP development in Ukraine. The political crisis, ongoing conflict and change in leadership in 2013-14 stalled implementation of the SIP. P3DP is addressing the concepts from the draft PPP Strategy and SIP in MOEDT’s plans for PPP development and ongoing legislative development.

Strengthening the 2010 PPP Law and Relevant Sub-Laws

P3DP has addressed numerous shortcomings and contradictions in the PPP Law and relevant sub-laws, as described below. P3DP has contributed recommendations, clauses and draft amendments, advocates for their adoption, and tracks their progress through the system. P3DP also facilitates public hearings to assess proposed amendments and obtain vital feedback from stakeholders, including technical experts and the private sector. The following describes the key areas of P3DP focus and the status of efforts at the end of this reporting period:

- Tendering and Appraisal Procedures
  P3DP scored a significant policy success with the approval of amendments developed, recommended and advocated by P3DP to CMU Decree #384, On Efficiency Analysis and Tender Procedures of Public-Private Partnerships.

  During Year 4, P3DP provided significant support on proposed amendments to tendering and appraisal
procedures. The amendment strengthens the legal framework for PPPs by simplifying tendering and project appraisal procedures and resolving numerous legislative contradictions. The MOEDT approved the proposed amendment on July 25, 2014. In September, a key milestone was reached when the ministries of impacted sectors approved the proposed amendments and submitted them to the Cabinet of Ministers, which approved them on October 31, 2014. These measures mitigate opportunities for corruption and remove major hindrances to private sector participation in PPPs.

- **Risk Assessment Methodology**
  In May 2014, the final draft of the PPP Risk Assessment Resolution (draft CMU decree on amendments to CMU decree #232) was submitted to the MOEDT. The draft decree, authored by P3DP, regulates the activities of municipalities or other public partners regarding PPP risk assessment and management. This will become part of the PPP Unit’s operational procedures and make the evaluation process more clear for PPP project stakeholders. Comments obtained from stakeholders were incorporated into the draft.

  During the reporting period, P3DP provided comments and obtained feedback from relevant GOU agencies, including the Ministry of Regional Development and the Ministry of Infrastructure. The draft decree was finalized but must be re-approved by various agencies because of the recent changes in government before it can be submitted to the CMU for approval and adoption. The CMU is expected to consider the proposed draft in Y5Q2.

- **Simplified Land Allocation, International Commercial Arbitration, and Enhanced Protection of Investor Rights**
  P3DP authored amendments to draft law #4237a, the key document for changing the PPP framework, with input from MOEDT and other stakeholders during Year 4. These amendments propose to eliminate regulatory barriers and simplify regulations regarding land allocation to PPP Projects; provide better governance of PPPs; implement additional forms of state support to PPP Projects (e.g. availability fee); enable international arbitration for concession projects; allocate risks fairly in PPP contracts; and protect investor’s rights upon public partner fault or changing of legislation. The Parliamentary Committee on Entrepreneurship and Industrial Policy, the primary committee currently tasked with investment and PPP legislation, approved the amendments and forwarded the legislation to other committees for review and subsequent submission to the Verkhovna Rada. Public discussion of the draft law took place at the PIEC in July 2014; feedback from officials, experts, and the private sector was obtained. In September, the amendments were registered in the Plenary Agenda of Rada’s 5th session.

  During the reporting period, the draft law obtained a new index #1058 and was
resubmitted to the new Verkhovna Rada. Parliamentary Committees and Expert Departments received it favorably and registered the law in the Verkhovna Rada agenda for consideration.

- **Green Tariff**
  In 2014, P3DP provided recommendations to amend existing legislation by implementing a “green” tariff mechanism. This would pay a higher tariff for energy produced from waste, which in turn would stimulate private investment in the sector and improve methods of calculating energy payment for enterprises. This would simplify the implementation of biogas projects and make the solid waste management sector more economically viable. The resulting draft law was finalized in June 2014; however, it has not yet been registered in the Verkhovna Rada because of the political crisis and parliamentary elections of October 2014. P3DP will continue to advocate for the draft law in 2015.

- **Licensing**
  In Year 4, P3DP finalized recommendations to CMU Decree #756 regarding licensing. Current licensing regulations do not adhere to PPP regulations. Private partners cannot obtain a license for certain activities if they cannot confirm the lease or ownership of the equipment and other assets. This licensing issue was noted in the GLN legal diagnostic report as an obstacle to PPP development. Upon adoption of the draft, investors will benefit from: 1) improved licensing procedures; 2) easier access to various sectors, such as heating supply, through simplified implementation of biogas projects and making the solid waste management sector more economically viable. The resulting draft law was finalized in June 2014; however, it has not yet been registered in the Verkhovna Rada because of the political crisis and parliamentary elections of October 2014. P3DP will continue to advocate for the draft law in 2015.

**Improving Concession Legislation**

P3DP has had successes with reforming concession legislation. Its recommendations on draft law #0857 *On Amendments to the Laws on Leasing or Concessions of District Water, Heating Supply and Sanitation Communal Facilities* were adopted in October 2013, affecting compulsory rules on tendering, sub-lease rights, and regulation of lease payments, contract termination and fees. These amendments increase the attractiveness of concession contracts for the delivery of public services by the private sector.

P3DP also provided recommendations to the draft decree on amendments to CMU Decree #639 on concession fee calculation methodology. The draft recommends an economically viable methodology for concession fee calculation, which will make the use of concessions more attractive to investors. In August, the MOEDT published the proposed amendments and recommended adoption of a more...
streamlined method for calculating concession fees.

During the reporting period the draft decree was finalized. P3DP will continue to advocate for this reform and it is expected that the regulation will be adopted in Year 5.

Collaboration with Kyiv City State Administration

Having become familiar with PPPs through collaboration on the Kyiv Education and Kyiv Sports & Recreation Pilot PPPs, the Kyiv City State Administration (KCSA) requested that P3DP review its draft PPP Policy and Implementation Plan and provide recommendations for improvement. KCSA views PPPs as an important tool for attracting private investment needed for high priority infrastructure projects. P3DP is currently working with city leaders to develop PPPs in education as they evaluate other sectors. P3DP provided recommendations that will strengthen municipal PPPs by improving project initiation procedures and clarifying ownership and land issues. KCSA hopes to engage the private sector to address priority issues in transport, solid waste management, and other sectors. If successful, P3DP will share and promote KCSA’s approach to other Ukrainian municipalities to facilitate their PPP strategy development.

Collaboration with IFC on the Kyiv “Ring Road” PPP Project

During Year 4, the GOU requested P3DP’s support in identifying regulatory obstacles to the Kyiv Ring Road Project and to propose changes in legislation to address them. P3DP’s legal consultants completed a Legal Gap Analysis of Ukrainian motorway concession legislation in August and presented it to stakeholders at the PIEC for their review and input. Government officials and private sector stakeholders shared opinions and recommendations for legislative reform efforts in this important sector. Legislation that P3DP examined included the public procurement law, the road concession law, and the PPP law, among others. P3DP reviewed how legislation impacts the process for selecting a concessionaire, public spending, contracting issues, permits, land rights, construction and other issues. Identifying barriers that discourage private participation was highlighted and alternative ways for their mitigation evaluated.

This work supports and compliments a feasibility study underway by IFC for a road concession project to connect Kyiv’s ring road to a major highway that will require building either a tunnel or a bridge crossing the Dnipro River. The project will improve the flow of commercial traffic around the city, which intersects with several major transportation corridors in Central and Eastern Europe.

P3DP’s contributions provide valuable inputs to this important infrastructure project that, if successful, can stimulate interest in large infrastructure PPPs in Ukraine. The identification and reform of legislative and regulatory barriers to this project will positively impact private participation through PPPs and other approaches in the transport and infrastructure sectors. These findings form the basis for further legislative drafts to be developed in Year 5.
1.2 Budget Code Amendments and Energy Efficiency

A key issue identified through PPP pilots highlights how current legislation prevents municipalities from making long-term budget commitments. This barrier to long-term commitments negatively affects their entering into multi-year contracts, including PPP energy services contracts. At the request of the National Commission, P3DP provided input to draft laws to amend the budget code and energy efficiency legislation (based on #3013 and #3014) to help the GOU meet energy efficiency goals. Developed together with experts from the Commission, EBRD and IBSER, P3DP’s proposed amendments, if adopted, will allow cities to enter into long-term budget commitments. This will make energy service contracts and energy efficiency PPPs viable and more attractive to the private sector. This is crucial for stimulating PPP practices. P3DP’s recommendations and input on relevant tendering and legal terminology were accepted by the Commission.

The draft laws presented to the public in May 2014 at a working group session organized by the Ministry of Regional Development, Construction and Housing. The drafts were also posted on the Ministry’s website and submitted to the CMU, which in turn will send them on to the Verkhovna Rada. It is expected that this will happen in early Year 5.

During the reporting period, P3DP also participated in a conference entitled Energy Performance Contracts – the Way to Energy Efficiency. The conference was attended by representatives from the Ministry of Energy, the Agency for Energy Savings, experts, NGOs, foundations and donors. Participants discussed approaches for further advocating for needed legislation with the new Verkhovna Rada, which was elected in October. Given the urgent tasks facing the Verkhovna Rada, consideration of proposed legislation is likely to be delayed until 2015.

1.3 Solid Waste Tariff Methodology

Ukraine’s solid waste management sector is in urgent need of financing and technical expertise. According to a recent World Bank study, less than four percent of the 13 million tons of solid waste generated annually is recycled. Of the country’s 6,000 landfill sites, 3,500 are uncontrolled, posing health risks to the population and contributing to greenhouse gas emissions.

With appropriate incentives, the private sector could contribute significant funding and expertise. P3DP learned about this issue first-hand through a series of roundtables and discussions between the private sector and government on landfill tariff calculation policy. These discussions, part of strategic communications efforts for the pilot PPPs in SWM in Vinnytsia and Ivano-Frankivsk, led to the development of a proposed methodology for calculating landfill tariffs.

During the reporting period, P3DP submitted the draft SWM Tariff Calculation Methodology and supporting documents to the Ministry of Regional Development. The Ministry is now reviewing the draft and is expected to respond during the second quarter of Year 5.
1.4 Law on Solid Waste Management

P3DP provided recommendations to the draft law on solid waste management, which decentralizes tariff setting authority from the national government to municipal governments, where decisions can be made more effectively. P3DP’s recommendations were well received. Collectively, these amendments will create new opportunities for PPPs within the SWM sector.

During the reporting period, draft law #5129 On Amendments to Certain Laws of Ukraine in the Solid Waste Management Sector, developed with P3DP input, was registered in the Verkhovna Rada. The proposed amendments aim to improve the attractiveness of the SWM sector to the private sector and better align practices with those of the European Union. Key provisions of the draft law include:

- Approval authority for landfill tariffs will be transferred from the National Communal Services Commission to municipal authorities;
- SWM terminology will be aligned with those used by the EU;
- Penalties will be introduced for breaching SWM regulations on SWM collection and landfill issues;
- A mechanism to enable citizens’ participation in solid waste management collection contracts will be introduced.

P3DP expects the draft law to be considered in the first quarter of Year 5. In addition, P3DP participated in a two-day conference in November 2014 in Lviv on the impact of new SWM regulations and other efforts to attract private investment into the sector. The conference was organized by the Ministry of Regional Development with P3DP support and was attended by over 100 representatives from governments, businesses and the international community. P3DP expert consultants, leaders from municipalities hosting PPP pilots presented at the event to highlight experiences and lessons learned that could be leveraged by municipalities interested in applying similar strategies. USAID Mission Director Jed Barton highlighted ongoing and planned technical assistance focused on improving Ukraine’s investment climate, the environment, and creating opportunities for private business.

1.5 E-Government

P3DP explored the feasibility of e-Government in Donetsk prior to the crisis. More recently, interest in e-Government has grown as part of the overall reform efforts of the new government.

During the reporting period, representatives from USAID and the State agency of e-Government met with P3DP to discuss the potential of using PPPs to broaden e-Government administrative services. It was agreed that P3DP would conduct a workshop exploring the viability of various PPP options as well as join the e-Government working group within the Ministry of Regional Development.

In October, P3DP provided recommendations to the draft law On a Single System of Electronic Cooperation. In November, P3DP provided comments to the Advisory Note on e-Procurement and e-Procurement Concept Paper of Ukraine, outlining PPP-related issues and options at the request of the e-Governance Working
Group. The draft law, which provides the basis for e-Government development, was posted on the Ministry of Regional Development’s website for public review and input.

1.6 Collaboration

P3DP actively participates in working groups comprised of government bodies, NGOs, private sector organizations and other stakeholders, to strengthen the legislative and instructional framework for PPPs. The effectiveness of these various groups differs considerably but as a whole they provide valuable information and data for analysis and have proven to be useful conduits for “creating ownership” and dissemination of recommendations.

During this reporting period, P3DP organized and/or participated in numerous conferences, round tables, workshops, trainings, and consultations to facilitate the development of PPP-related legislation and policy. A full list of policy meetings can be found in Annex 3.

1.7 Objective 1 Plans for Y5Q2

- Accelerate the PPP development Process

  P3DP will continue efforts to improve regulatory policy requirements, approval processes and PPP development tools so that PPPs can be more readily developed. P3DP will work to simplify and accelerate the PPP development process in Ukraine by:
  - Tailoring the PPP Feasibility Study and related risk assessment and appraisal methodology procedures – P3DP efforts will advocate for reforms of relevant government resolutions governing the PPP development processes;
  - Improve licensing procedures for PPPs in municipal heating and other communal services;
  - Establish clear internal municipal PPP policies conducive to attracting private investment and improving services and infrastructure;
  - Improve current legal PPP framework by adoption of the amendments to PPP Law.

- Legislative monitoring activity will continue.

- Infrastructure and Communal Services
  - Advocate for the adoption of draft law #1058 (previously #4237a) On Amendments to Specific Laws of Ukraine (Regarding Elimination of Regulatory Barriers for PPP Development in Ukraine and Investment Promotion);
  - Work with amendments to the tax code to facilitate PPP implementation to eliminate mandatory requirements to any concessionaire to bear the tax debts of public entities;
  - P3DP will continue the support of draft law #1313 based on #3013 and #3014, as well as other related draft laws regarding long-term budget commitments for energy serving contracts. P3DP will also hold discussions with the Ministry of Finance on the draft law on amendments to the Budget Code in order to enable implementation of
long-term budget commitments for PPPs;
- P3DP will work with secondary legislation affecting PPP and infrastructure development and required amendments including CMU decrees #81, which deals with the monitoring of PPP contracts; #756, which eliminates barriers in licensing; and #639, on concession fee calculation; #232 on tendering and risks assessment; and MOEDT order #255 Some Issues on Providing Analysis of Effectiveness of PPPs to simplify the PPP assessment procedure.

- Solid Waste Management
  - Draft law On Amendments to some SWM Laws adopted;
  - Decree on Landfill Tariff Calculation Methodology adopted;
  - Recommendations on amendments to SWM secondary legislation developed.

- Renewable, Alternative Energy and Energy Efficiency
  - Support the draft law On Amendments to Some Laws of Ukraine on Alternative Sources of Energy, which stimulates the development of energy produced from biogas and solid waste under the green tariff;
  - Collaborate with the USAID supported MERP project in supporting efforts to adopt legislation needed for Energy Service Company contracts to be viable.

- Motorway Concessions. The GOU aims to stimulate private investment in this area through PPPs. P3DP will draft and support amendments to the law on motorway concessions.

- Industrial Park Development. P3DP can contribute to industrial park development through the elimination of legislative barriers that dampen investor interest or provide incentives for private sector participation. P3DP will draft the necessary recommendations.

- Healthcare Services. The GOU has provided recommendations to the draft concept paper on healthcare development; a clear policy is envisaged once the concept paper is adopted. P3DP is following developments and is working with PIEC to identify key barriers for private participation in this sector. P3DP will be an active participant in drafting and proposing legislation and advocating for needed reforms.

- Working Group Participation. P3DP will continue to participate in relevant GOU entity working groups, draft legislative and regulatory reforms, provide proposals on draft laws/sub-laws or amendments, and participate in meetings, conferences, and workshops organized by the various state entities.
OBJECTIVE 2: IMPROVING PPP SUPPORT SERVICES OF THE MOEDT AND OTHER GOU AGENCIES AND STAKEHOLDERS

Most Ukrainian municipalities and government agencies lack the experience and technical capacity to develop and manage PPP transactions. This prevents the government from engaging the private sector in addressing urgent infrastructure and public service needs. The PPP Unit was established in 2011 within the MOEDT to address these deficiencies and provide the support needed for PPP development. P3DP is helping the PPP Unit, other responsible government agencies, and regional and municipal governments improve the legislative environment and policies and deliver services that improve viability of proposed PPPs that are in the best interest of the public and protect the environment.

The main objectives of the PPP Unit are to:

- Create and implement a National PPP Strategy;
- Improve the policy, legal and regulatory context for PPPs;
- Support municipalities and agencies wishing to use PPPs; and
- Establish systems and processes to monitor the use of PPPs.

P3DP provided critical assistance in defining the role and responsibilities of the PPP Unit and in developing a national policy framework to promote PPPs. P3DP continues to support the Unit by enhancing its capacity to support municipalities as well as other agencies working to develop PPPs.

The leadership of the Ministry has changed several times since the inception of the PPP Unit. In December, Aivaras Abromavicis, was appointed Minister of the MOEDT. His predecessor, Pavlo Sheremeta, only held the post from February through August 2014. In December 2015, the new Minister signed a decree to restructure the Ministry, reducing the number of departments from 25 to 14 and reducing staffing by 20 percent within the next three months. It remains unclear how the restructuring will impact the functioning of the Ministry, but the PPP Department currently remains in place.

Given growing uncertainties, it is critical that P3DP continue its role in supporting the PPP Unit so that the Unit will continue to fulfil its responsibilities and deliver its services long after P3DP is completed.

2.1 Create PPP Standards, Guidance Tools, and Procedures

Since program inception, P3DP has supported the MOEDT in establishing the PPP Unit, helping it define PPP procedures, providing advice, and promoting the use of PPPs in accordance with the National PPP Strategy. These efforts are bearing fruit. In December, the PPP Unit reported receiving
documentation from the cities of Morshyn and Yavoriv for proposed water treatment PPP projects. P3DP agree to provide support in reviewing and commenting on the proposals. The Kharkiv Regional Council also informed the MOEDT about upcoming PPP projects focused on providing housing for internally displaced persons in Ukraine.

Some of P3DP’s procedural work with the PPP Unit was also successful in Y5Q1. Prior to the reporting period, P3DP and the MOEDT’s PPP Unit worked to simplify the PPP procedures and contribute to anti-corruption efforts. P3DP assessed the legal and procedural details of draft resolutions #384, #232, and #756, which affect the PPP appraisal methodologies, risk assessment, and licensing regulations. Of these, resolution #384, which amends the procedure for tendering and efficiency analysis, was adopted by the Cabinet of Ministers in October 2014.

Also in October, P3DP reviewed the PPP Unit’s Institutional and Operational Plan with the new Head of the Department of Investment, Innovations and PPPs, Olena Kurcherenko. P3DP will continue to assist the Unit to gain the competency needed for them to support Ukrainian municipalities and other agencies in preparing PPP projects.

2.2 Enhancing MOEDT and other agencies’ PPP Knowledge and Skills

P3DP uses a variety of tools for developing PPP capacity of key GOU staff. These include practical workshops to learn essential knowledge and skills, study tours to learn first-hand from experiences of international colleagues, and tailored consultancies to apply acquired knowledge to PPP project evaluation and approval. P3DP also participates in working groups in various GOU bodies on PPP-related issues.

During this reporting period, P3DP conducted a study tour to Turkey to learn from their experiences in PPP policies, operations and management. P3DP acknowledges that while it is of great value to learn from the successes and failures of other countries, it is unwise to try to apply entire frameworks wholesale. The fifteen Ukrainian officials who participated included Roman Kachur, Deputy Minister of the MOEDT who is responsible for PPP policy at the ministerial level; the PPP Unit’s Pavlo Pakholko, Deputy Head of the MOEDT’s Department of Investments, Innovations and PPPs; two representatives from the National Projects Agency and multiple municipal representatives from the southern and eastern parts of Ukraine.

Participants met with representatives of the World Bank, EBRD and Turkish agencies tasked with attracting investment and developing partnerships to improve infrastructure and public services. Municipal leaders from Istanbul and Ankara hosted the group and explained their strategy and practical experiences in attracting and working with private business to address critical needs of their citizens. Private businesses hosted site visits of industrial and techno-parks, solid waste facilities, transport infrastructure, and economic development projects developed through PPPs.

The tour succeeded in impressing the value of PPPs on participants as an important tool for attracting investment to Ukraine. As a
result, the MOEDT and sector ministries are outlining programs for promoting investment using PPPs, citing successful strategies used in Turkey as examples. At a subsequent press conference, the Head of the Dniporpetrovsk Regional Council detailed how some PPP approaches used in Turkey will be adapted to the realities of the region and then applied in developing infrastructure and public services.

P3DP conducted a follow-up event on the study tour in November: a seminar at PIEC highlighting Turkey’s programs and policies to stimulate investment and how the approaches can be used effectively in Ukraine. The Ambassador of Turkey to Ukraine and other Turkish representatives presented their vision of joint cooperation between the two countries and expressed an interest in facilitating private investment into Ukraine. The Deputy Minister of the MOEDT and other study tour participants described how they were tailoring approaches used in Turkey to develop PPP projects in various sectors including healthcare, SWM, energy efficiency, transport, and economic development mechanisms such as industrial parks. See Annex 4 for additional information.

During this period, P3DP also developed a PPP Guidance Note on Dispute Resolution, attached as Annex 5. This 3rd Guidance Note is one method by which P3DP will leave behind a body of practical Ukrainian-language materials that can be useful to stakeholders developing new PPP projects.

2.3 Developing Communication and Cooperation between GOU and the Private Sector – PPP & Infrastructure Expert Center

To establish an effective dialogue between the GOU and the business community, P3DP and the American Chamber of Commerce in Ukraine launched the PPP & Infrastructure Expert Center (PIEC) in May 2014. PIEC serves as a platform for advocating for policy and regulatory reforms and facilitating collaboration between the GOU, businesses, donors and NGOs in developing PPPs and infrastructure. Coordination between P3DP, the Chamber, and the GOU will enhance reform efforts. PIEC also facilitates communication between the public and private sectors and facilitates completion of specific PPP agreements.

PIEC has established itself as a valuable tool for discussion and facilitating dialogue between the private sector and government. In October, PIEC conducted a roundtable on healthcare reform and mobilizing private sector finance, technology and expertise into the sector through PPPs. Over 60 representatives of the Ministry of Health, as well as the business and the medical community, identified needed reforms to increase investment and improve the quality
of health services in Ukraine. Specific opportunities were highlighted in Odesa, Lviv, Zaporizhia and other cities. This event drew the attention of the Kyiv City State Administration, which followed up with a working group session entitled *PPPs as the Road to Building National Healthcare in Kyiv.*

Chernigiv’s Regional State Administration also reached out to the business community through the PIEC. In November, Chernigiv leadership used the venue to introduce the goals and services of a newly-established regional PPP Center to an audience of over 20 business representatives and other stakeholders. Additionally, investment opportunities being developed on the basis of PPPs were presented and discussed.

In December, P3DP shared its experiences in renewable energy PPPs at a PIEC-hosted seminar. Officials from Malyn, the site of a PPP pilot project to provide heating with renewable fuel, described the process and benefits of engaging the private sector through a PPP agreement. Over 50 representatives from municipal governments and private firms attended the event. A key point highlighted at the event was how the MOEDT’s guidance process helped mitigate risks and clarified numerous issues that often lead to dispute between public and private sector partners. See Annex 6 for additional information of the event. A case study highlighting the Malyn experience is included as Annex 7.

*Developing the project through the formal PPP process took time and effort, but the result is a well-structured project that is bringing value to the community.*
- Oleksiy Shostak, Head of Malyn Administration

These successes demonstrate the broad reach and value of PIEC events. P3DP will continue to develop PIEC so that it continues to serve as a sustainable mechanism capable of providing its valuable services.

**2.4 Industrial Parks**

The development of industrial parks is a priority for many Ukrainian municipalities as a means for attracting investment, creating jobs, and sparking economic development, especially in the southern and eastern regions of the country. P3DP is participating in a working group organized by the U.S. Ukraine Business Council (USUBC) to keep abreast of developments and make contributions to public discussion on the topic.
Although insufficient time remains in the program to see industrial park PPPs fully implemented, P3DP is well-positioned to contribute to their development by improving the legislative environment, working to introduce investment incentives, and assist municipalities to create viable strategies that facilitate attracting investment and developing the parks. One initiative is the “Business Harbor” in Kyiv being planned by the Kyiv Investment Consortium, a private sector association, in cooperation with the city administration. P3DP signed an MOU with the Kyiv City Administration (KCSA) to contribute to the development of the PPP. Leaders launching an initiative in the Ivano-Frankivsk region will be visited during the next quarter to assess what, if anything, P3DP can contribute to their efforts.

In December, as a follow-on activity of the study tour to Turkey, P3DP fielded the Vice President of ODTU Tekokent, a techno-park located in Ankara, to assess PPP opportunities in the Kharkiv and Dnipropetrovsk Regions. This recognized expert in innovation and entrepreneurism met with leaders of government, education and business to assess efforts to support start-up IT and other businesses in the regions.

2.5 Objective 2 Plans for Y5Q2

To support Objective 2 activities in Y5Q2, P3DP will:

- Provide counselling, advice, and recommendations to MOEDT and other agencies through participation in working groups;
- Work with PPP Unit to create PPP bidding proposal evaluation tools that can guide municipalities and agencies;
- Guide development of the PIEC to better prepare it for a long-term role in facilitating public-private dialogue and advocacy;
- Develop materials and case studies based on the international study tour and ongoing consultations;
- Provide ongoing support in processing PPP projects, adapting the PPP Appraisal Methodology and introducing a benchmark “Code of Ethics” that can be applied in selection processes;
- Prepare a guidance notes on agribusiness PPPs;
- Organize discussions on PPP experience of municipalities, presenting amendments to the PPP law; and legal issues on road concessions and other PPPs;
- Follow-up with industrial park development through participation in working groups and site visits;
- Organize a two-day e-Government workshop for national and regional level government (currently planned for February 17-18) per request of the State Agency on E-Government and provide follow-up support.
OBJECTIVE 3: DEVELOPING PUBLIC AWARENESS AND MUNICIPAL CAPACITY

A key part of P3DP’s mandate is to build stakeholder awareness of the important role public-private partnerships can play in improving infrastructure and the delivery of public services and the capacity of government and municipal leaders to design and implement them. Since Program inception, demand for PPPs by government and the private sector has been growing. PPPs have been included in the national development strategy and are being pursued by a growing number of regional and municipal governments throughout Ukraine.

In all awareness and training activities, P3DP emphasizes the importance of transparency in the decision making processes, the value of consulting key stakeholders throughout the PPP development cycle, and the need to address environmental issues involved in PPP projects.

3.1. Develop Capacity of Pilot Municipalities to Implement PPP Projects

P3DP conducts capacity development events to provide representatives of pilot municipalities with knowledge and skills needed to identify, launch and manage successful PPP projects. These activities also support the implementation of pilot PPP projects under Objective 4.

Interest in PPPs by municipal representatives steadily increased during the first four years of P3DP in spite of the political and economic upheavals that took place in 2014. Training conducted included practical workshops on PPP project analysis, financial modeling, risk...
assessment, feasibility study preparation, and project management. Seminars were conducted focused on specific sectors such as health, waste management, and energy. To ensure that municipalities, government agencies and other stakeholders have access to PPP knowledge and support in the future, P3DP is institutionalizing the trainings by working with Ukrainian educational and training institutions and making a PPP course, case studies and guidance materials readily available via the MOEDT and the internet. P3DP also provides “train-the-training” to enable instructors of leading institutions currently or planning to offer PPP courses.

Participants of the “train-the-trainers” workshop will receive follow-on support throughout Year 5.

In addition, P3DP disseminates its experience through awareness-raising activities. Prior to the reporting period, awareness activities emphasized the basic principles and benefits from private sector involvement through PPPs. For the remainder of the Program, P3DP will focus on PPP key success factors identified through experience gained from implementing the pilot projects, such as the need for transparency throughout project development and implementation and the vital role of stakeholder communications.

During the reporting period, P3DP implemented the following capacity building activities:

- **E-Learning Course.** The e-learning course is an important part of P3DP’s efforts to create sustainable knowledge resources on PPPs. The initial version of the course is posted on [http://moodle.ppp-ukraine.org/](http://moodle.ppp-ukraine.org/). It is being tested internally by P3DP staff and will be officially launched in the second quarter of Year 5. The course provides knowledge of PPP fundamentals such as legal and institutional frameworks for PPPs, identifying PPP projects, developing feasibility studies; financial analysis and modeling of PPP projects and risk assessment and management. The course will serve as a framework for other P3DP products, such as case studies and sample documents for pilot projects and videos highlighting development experience of the PPP pilots.

- From November 3 – 7, 2014, a “Train-the-Trainers” workshop was held in Kyiv. Over 20 faculty members and instructors from universities, academies, and training organizations tasked with training public servants completed the 5-day session. In addition to key PPP principles, participants learned how to incorporate case studies based on P3DP experiences into their PPP courses. Course materials will be made available online. See Annex 8 for more details of the workshop.
3.2. PPP Awareness Raising - Conferences, Seminars and Roundtables

Conferences, seminars and roundtables are effective ways to raise awareness about PPPs in Ukraine. In addition to providing a platform for sharing and discussing key elements of PPP transactions and experiences of P3DP’s pilot PPPs, these events have led to increased interest in PPPs by regional and municipal leaders.

During the reporting period, P3DP participated in numerous events that raised awareness and shared knowledge about PPPs:

- **Kyiv International Economic Forum**
  In October, P3DP participated in the Kyiv International Economic Forum, which included a breakout session on the importance of PPPs. PPPs were identified as an effective tool in efforts to restructure and develop depreciated state enterprises and preserve jobs. The closing session focused on the importance of public-private cooperation in rebuilding infrastructure, key social services, and industry.

- **Chernihiv Economic Development Conference**
  Chernihiv officials presented the region’s economic development strategy to a group of over 100 businesses and international organizations at an event on October 9. During the conference, P3DP signed an MOU with the Regional Administration outlining envisaged cooperation as municipal leaders work to develop PPPs in key sectors such as energy, health, infrastructure and industrial parks.

- **Implementation of Healthcare PPPs Seminar**
  P3DP shared international best practices in healthcare PPPs and lessons learned through experiences in Ukraine at a seminar organized in Lviv by the Center for Medical Innovations. P3DP drew from its experience supporting Zaporizhia leaders in their efforts to launch a PPP to renovate a facility, improve existing services, and introduce additional services.

- **Healthcare Reform in Ukraine Conference**
  On November 17, P3DP shared examples of regional and Ukrainian efforts to improve healthcare through PPPs. The event was organized in cooperation with the American Chamber of Commerce. Stakeholders generated reform recommendations and agreed to jointly advocate for their adoption.

- **National Seminar on PPPs in Waste Management**
  Organized by the Ministry of Regional Development, the event held Lviv on November 20-21, focused on the impact of new solid waste management regulations and other efforts designed to attract private investment into the sector. Over 150 representatives from government, business, and the international community attended the event. USAID and other donors highlighted their work in the sector. Representatives of P3DP’s Pilot PPP cities Vinnytsia and Ivano-Frankivsk delivered presentations on their experiences and lessons learned.
• “PPPs in the Information Services Sector” Roundtable
  The National Commission on Statute Regulation of Communications and Information held a roundtable on December 19. P3DP joined the Commission and business stakeholders to identify requirements and incentives needed to motivate private sector participation in creating state data centers in Ukraine. P3DP will participate in the working group being formed to address the relevant issues.

• Creating Market Conditions for Attracting Private Investment in the Natural Gas for Substitution Projects and Alternative Energy Sources through Public-Private Partnerships
  On December 17, P3DP participated in an event organized by the USAID project “Local Alternative Energy Fuel: Myrhorod” in Poltava. P3DP shared its Malyn PPP project experience and encouraged Poltava municipalities and private companies to engage in district heating PPPs using biofuel as a substitute for natural gas substitution.

P3DP will continue to participate and contribute to conferences, seminars and round tables to raise PPP awareness and share PPP knowledge gained through practical experiences in Ukraine.

3.3. Strategic Stakeholder Communications

Strategic stakeholder communications is an important part of any PPP project. It helps government leaders and key stakeholders, including the business community, NGOs, the media and the general public better understand the benefits of specific PPPs and provide input during the development. Municipal leaders and other decision makers need the tools to determine how proposed PPP projects will be received and whether any negative impact or risks outweighs the potential benefits.

During the reporting period, P3DP implemented the following stakeholder communications activities:

• P3DP prepared a communications strategy for the municipality in Lviv to support the Lviv Parking PPP. The goal of the strategy is to engage all stakeholder groups into the discussion on the pilot PPP project, including government, business community, NGOs, academia, the media, and the general public to (i) obtain input and consensus on the goals of the project; (ii) identify and address issues and concerns in the design phase of the project; (iii) increase the pool of potential bidders on the project; and (iv) increase support for the project. The document serves as a roadmap for the project’s stakeholder communications.

• P3DP introduced the concept of PPPs and highlighted the “watchdog role” media must play in ensuring transparency in development the PPP projects that bring benefits to the community at a seminar held by the USAID-supported DIALOGUE project. The seminar focused on municipal governance for approximately 100 representatives of the mass media. P3DP also distributed introductory PPP brochures and invited media representatives to participate in the upcoming PPP media trainings in March-April 2015.
3.4. Partnerships with Educational Institutions

P3DP’s experience in providing transaction advice on PPP projects has given it unique and valuable experience that can be used in case studies and teaching materials. Sharing the P3DP developed materials and conducting the "train-the-trainer" course for faculty members (see section 3.1 above) is a significant step toward ensuring sustainability of P3DP capacity development efforts. P3DP will provide additional support to the 20 professional teachers and trainers representing 11 institutions that participated in the TOT. Institutions include the National Academy of Public Administration in Kyiv and its regional branches in Kharkiv, Odesa, Lviv and Dnipropetrovsk; and Economic Universities from Odesa, Kharkiv Zaporizhia and Kyiv.

P3DP is also in discussion with four branches of the National Academy of Public Administration (NAPA) in Kharkiv, Odesa, Lviv and Dnipropetrovsk. P3DP training materials and case studies will be shared for inclusion in PPP modules as part of post-graduate programs for public officials. A faculty member from NAPA Kyiv branch was an author of the PPP e-learning course, which also drew from P3DP’s experience.

3.5 Objective 3 Plans for Y5Q2

In the Y5Q2, the focus of Objective 3 will be developing capacity of the local municipal leaders and media to improve their abilities to communicate PPP-related issues.

- In March 2015, P3DP will conduct five PPP Stakeholder Communications Workshops for 15 specialists responsible for stakeholder communications and public relations in each of the five P3DP partner municipalities. In parallel, PPP Media Trainings will be organized for journalists in partner cities to enable them to objectively report on PPPs. Emphasis will be placed on how to identify the benefits of proposed PPPs, the challenges to their successful implementation, the impact on stakeholder groups and the environment. The importance of transparency in PPP development and the selection and monitoring of the private partner will also be highlighted.

- P3DP will continue to test and improve the PPP e-learning system by including ancillary materials developed as part of the P3DP strategy to disseminate lessons learned through implementation of PPP pilot projects and other program activities. These materials will include short videos, Guidance Notes, case studies and suggested reading materials. P3DP will also provide ongoing support for participants in the Train-of-Trainers workshop conducted in November 2014.

- P3DP will begin to develop the series of five 10-15 minute videos based on the pilot projects, highlighting the challenges, opportunities and potential benefits of PPPs. The videos will focus on key sectors such as health, education, solid waste management, alternative and renewable energy, and transport. They will underline environmental issues as well as gender considerations. In addition to being
made available online and broadcast in the media, they will be used in P3DP trainings, conferences, seminars and other events.

- A “PPP Guide for Municipalities” based on the updated technical manual will be developed and distributed to municipal leaders to improve their capacity to understand PPPs and identify viable opportunities.
- Case studies of each pilot PPP with technical details on each project will be prepared to guide others interested in replicating similar projects. Sample bidding packages and used PPP agreements will also be shared as examples for adaptation.

P3DP will start preparing the third PPP Awareness, Attitudes and Needs Survey among pilot cities and reference non-pilot cities, as well as central level government representatives, to measure the level of PPP understanding, general attitudes, and capacity to develop successful PPPs.

Responding to the challenges faced by the country, P3DP plans to extend assistance to the municipalities of eastern and southern Ukraine in April. PPP Stakeholder Communication Workshops for municipal leaders and PPP Media Trainings will be conducted in Kharkiv, Odesa and Dnipropetrovsk (subject to safety considerations). PPP promotional round tables in these cities will also host municipal representatives from eastern and southern regions of Ukraine.
OBJECTIVE 4: PILOT PPP PROJECTS

Within this objective, P3DP provides advice and technical assistance to municipal governments developing PPP projects. These efforts use the PPP model to attract investments, rehabilitate depreciated assets, build new infrastructure, create jobs, and improve the local business climate. Like most countries successfully launching PPP programs, P3DP uses the “learn-by-doing” approach to gain key insights valuable to improving the PPP legal and regulatory environment while demonstrating their benefits, increasing awareness, and building capacity of government leaders to design and launch viable PPPs.

At the beginning of Year 5, P3DP adopted a two-pronged approach regarding pilot PPP projects: (1) Continue implementation of ongoing pilot PPP projects and (2) Capturing and sharing lessons learned to facilitate replication elsewhere in Ukraine. P3DP targets completion of five PPP pilots, of which two have been tendered and awarded. A public event held to share the lessons of one of these, the Malyn Biofuel Heating project, generated strong interest by other municipalities. Already, representatives from 25 Ukrainian towns and cities have demonstrated their interest in PPPs through their participation at PIEC events. This momentum is expected to continue throughout Year 5.

As could be expected, the economic crisis and ongoing war in Ukraine had significant impact on the progress of the pilot PPP projects. Key impacts include:
• Devaluation of the UAH – the cost in local currency for any imported equipment needed is greater, impacting local investors’ costs and ability to compete for PPPs;
• Worsening of the overall investment climate;
• Delayed decision making and authorizations by local authorities - for example, Zaporizhya is on alert due to increased risks of terrorist attacks while also hosting a growing number of internally dispersed people (IDPs);
• Decrease of gas inventory of each region with inability to import from Russia – this development has increased interest in PPPs having potential to generate heat and electricity from alternative fuel sources.

The PPP Pilot Process

Newly-installed boiler in Malyn designed to burn wood or straw pellets

The PPP pilots follow a development process in line with existing Ukrainian legislation, which continues to be improved by P3DP assistance guided by “on the ground” experiences. This involves numerous steps to ensure that sufficient information is available to key stakeholders, including potential private sector partners, officials, civil society and the public. Preparation of the feasibility study requires a legislative analysis, risk assessment, financial assessment, and environmental impact study. The process includes market sounding to assess private sector interest, and stakeholder communications to ensure the communities interests and concerns are addressed. P3DP continues to simplify and clarify required procedures to accelerate PPP development in Ukraine.
### Status of Pilot PPP Projects

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Status as of December 31, 2014</th>
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<tbody>
<tr>
<td><strong>Malyn Municipal heating with Alternative Fuel</strong></td>
<td><strong>Status:</strong></td>
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</table>
| Sector: Renewables & Alternative Fuel  
Type: Build-Operate-Transfer (BOT) | - PPP bidding completed and private partner selected  
- Contract signed with Energiya Tepla, a private Ukrainian firm, and approved by MOEDT  
- Equipment installation completed and operational  
- P3DP is monitoring continued implementation of PPP and results achieved  
- Environmental evaluation near completion |
| Heats three public schools using pellets made from renewable, alternative fuel sources. Expected benefits:  
- Heating costs reduced by at least 10%; initial savings were as high as 40%  
- Four jobs created  
- Estimated $150,000 in private investment (in part depending on exchange rate)  
- Carbon emissions reduced by 11,000 tons  
- Increases energy independence | |
| **Ivano-Frankivsk SW Landfill Management and Gas Treatment** | **Status:** |
| Sector: Solid Waste Management  
Type: Build-Own-Operate-Transfer (BOOT) | - City Executive Committee formally launched PPP preparation in April 2014  
- Feasibility study completed and submitted to municipality following incorporating their comments  
- City Council and Executive Committee expected to approve PPP Appraisal Opinion documentation in Y5Q2  
- Presentation to City Council and Executive Committee planned in February 2015  
- Environmental evaluation approved |
| Private partner builds and operates power generation facility using landfill gas. City to construct connection to the power grid. Expected benefits:  
- Six jobs created  
- Up to $2 million in private investment  
- Carbon emissions reduced by 450,000 tons over life of project | |
| **Vinnytsia SW Landfill Management, Gas Treatment and Electricity Project** | **Status:** |
| Sector: Solid Waste Management  
Type: Build-Own-Operate-Transfer (BOOT) | - Financial model updated to reflect current economic situation in Ukraine  
- Political decisions related to landfill operations expected in Y5Q2  
- P3DP to update feasibility study and prepare tender documents in Y5Q2  
- Environmental evaluation approved |
| Project will generate power from landfill gas at a municipal landfill. Expected benefits:  
- Six jobs created  
- Up to $2 million in private investment  
- UAH 60 million in taxes to be collected during life of project  
- Carbon emissions reduced by 20,000 tons annually | |
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<thead>
<tr>
<th>Project Description</th>
<th>Status as of December 31, 2014</th>
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<tbody>
<tr>
<td><strong>Kyiv Summer Sports and Recreation Facility</strong></td>
<td><strong>Status:</strong></td>
</tr>
</tbody>
</table>
| Sector: Parks & Recreation                                | - PPP contract signed between KCSA and Misto Sportu Ltd  
- Facilities installed and operational  
- P3DP is monitoring continued implementation of PPP and results achieved  
- Environmental impacts monitored by P3DP                                                                                                                                 |
| Type: Build-Own-Operate (BOO)                             |                                                                                                                                                                                                                            |
| Established a sports and recreation zone on Dolobetsky Island in the Dnipro River in Kyiv. Benefits:  
- 5 new jobs created, with 10 more expected  
- Up to $4.5 million in private investment |                                                                                                                                                                                                                            |
| **Kyiv Maintenance of Educational Facilities PPP**       | **Status:**                                                                                                                                                                                                               |
| Sector: Education                                         | - Legal report on internal KCSA project development procedure, financial model, public procurement issues and general legal structure of the PPP finalized  
- Education Department of KCSA has requested long-term budget allocation for the PPP  
- PPP documentation and follow-on meetings with Deputy Head of KCSA and key city departments expected Y5Q2 |                                                                                                                                                                                                                            |
| Type: Maintenance Agreement                               |                                                                                                                                                                                                                            |
| A private operator to provide utility, maintenance and adjacent services to education facilities in Podil district through 5-10 year PPP contract. Expected benefits:  
- Ten new jobs created  
- 73 facilities to be served  
- Strong replication potential |                                                                                                                                                                                                                            |
| **Lviv Parking Management**                               | **Status:**                                                                                                                                                                                                               |
| Sector: Urban Transportation                              | - Feasibility study completed and under review by City Executive Committee  
- Market sounding materials completed and shared with potential bidders  
- Public outreach under preparation for Y5Q2  
- Environmental assessment yet to be conducted |                                                                                                                                                                                                                            |
| Type: Design-Build-Finance-Operate (DBFO).                |                                                                                                                                                                                                                            |
| Builds an underground parking facility in the city center. Expected benefits:  
- $11 - 25 million in investment expected  
- Ten jobs created  
- Congestion in city center reduced |                                                                                                                                                                                                                            |
| **Zaporizhia Healthcare**                                 | **Status:**                                                                                                                                                                                                               |
| Sector: Healthcare                                         | - Project delayed because of political and security situation in Zaporizhia  
- P3DP to assess situation and revise plans/schedule during Y5Q2  
- Environmental evaluation in progress |                                                                                                                                                                                                                            |
| Type: lease-Renovate-Operate-Transfer (LROT)              |                                                                                                                                                                                                                            |
| PPP to make facility improvements and deliver medical services to the public at competitive costs. Expected benefits:  
- 50 jobs created  
- Up to $2 million in private investment  
- Higher quality medical services available to public |                                                                                                                                                                                                                            |
Pilot PPP Project Details

Renewables & Alternative Heating

P3DP's programming activities address energy efficiency and climate change and support USAID’s Global Climate Change and Development Strategy. In addition to supporting legislative changes to reduce harmful emissions, P3DP supports PPP pilots focused on capturing landfill gases and utilizing renewable energy.

Renewable energy holds promise in Ukraine for reducing the country’s dependence on Russian natural gas. The armed conflict with Russian-backed separatists and disputes over gas prices has made Ukraine highly vulnerable to energy cutoffs. This in turn has increased interest in energy efficiency and alternative fuels. By partnering with the private sector in PPPs, local governments can access financing and technology to generate heat and power from renewable fuel sources. In addition to increasing energy independence, this approach cuts both costs and greenhouse gas emissions.

Ukraine has significant potential to reduce heating and electricity usage by implementing efficiency programs. Expanding use of alternative and renewable energy also holds great promise; particularly because Ukraine’s rich agricultural and forestry sectors produce large amounts of bio waste.

4.1. Malyn Municipal Heating with Renewable Energy

BACKGROUND

In Malyn, a town of 27,000 in Zhytomyr Region, city officials looked into converting heating systems of public buildings to use wood or straw pellets as an alternative, renewable biofuel. This was motivated in part by the risks of a gas cutoff and unpredictable gas prices. P3DP assisted the municipality in preparing the PPP feasibility study, the financial model, technical and legal reviews, and environmental impact assessment. The pilot PPP was tendered, signed and approved during in September 2014, making it the first PPP to be executed fully within the provisions of Ukraine’s 2010 PPP Law.
The heating system is flexible and can burn wood, wood pellets, or compressed straw pellets. Straw is an agricultural by-product abundant in Ukraine. When compressed into pellets, it burns at a high temperature suitable for heating buildings. Furthermore, it does not contribute to greenhouse gas emissions, as the carbon released by burning equals the carbon absorbed by crops during the growing season. However, numerous technical and legal issues had hindered Malyn from moving forward on a biofuel heating project. City leaders turned to P3DP for support needed to overcome barriers and identify and engage a private partner through a PPP.

The project was evaluated and approved by both the MOEDT’s PPP Unit and the Malyn City Executive Committee. In February 2014, the City Council of Malyn announced the PPP tender. Although only one bid was submitted, a thorough review indicated that it was technically feasible, conformed to legislative requirements, and would bring value to the community. The bid went through a final technical and financial review by the tender committee with P3DP support. In April 2014, the Malyn City Council formally approved the Tender Commission’s selection of a private partner, thereby authorizing the mayor to conclude a contract with the winning bidder, Energiya Tepla, a private Ukrainian operator. This makes the Malyn project the first project in Ukraine to convert a natural gas boiler to an alternative fuel one using the PPP model. If successful, the project will serve as a model for other Ukrainian cities for increasing energy independence using renewable fuel.

In September, P3DP submitted the Environmental Review Checklist to USAID for its review, addressing comments and recommendations of the Mission’s Environmental Officer. The PPP agreement was approved by the MOEDT on September 2, and signed on September 19. Installation of equipment is expected by early November, in time for the 2014-15 heating season.

Municipalities, businesses and government bodies have expressed strong interest in using the pilot as a model that can be replicated elsewhere in the country. P3DP will continue to monitor progress of the project and share information about the model during Year 5 at sectoral seminars in regions. Regional administrations elsewhere in Ukraine have made inquiries to P3DP about the project, and many have expressed interest in adapting the approach.

ACTIVITY DURING THE REPORTING PERIOD

This project is in the operational phase and the three schools are already obtaining heat through the PPP. It now serves as a replicable model that can be implemented elsewhere in Ukraine. In December 2014, P3DP held an event at the PPP and Infrastructure Expert Center to share knowledge and experience gained through the implementation of this landmark PPP transaction. Malyn city officials described the process and benefits of engaging the private sector through PPP agreements to the 50 representatives of municipalities, companies and media attending the event.
P3DP also shared experiences with the project at a conference in Poltava focused on using renewable energy sources through PPP approaches. USAID’s Local Alternative Energy Fuel in Myrhorod project hosted almost 50 representatives of municipalities and the private sector in identifying approaches to expand the use of biofuel in Poltava region. As a result, P3DP identified the first group of towns that may be interested in replication of the model. P3DP also identified potential bidders – heating operators and boiler producers that are eager to expand production through PPPs – and is thus considering how to support the replication of the model.

Interest for replication appears to be growing. In December, representatives of InTech, a Slovak biofuel boiler producer and heat generating company, met with P3DP to express their interest in investing in the district heating market in Ukraine. Based on the success of the PPP pilot in Malyn, InTech believes operation of biofuel boilers has strong potential in Ukraine. P3DP is providing information to InTech and other private firms interested in launching PPP projects in the sector.

A recently-launched UNDP project focusing on using biomass in the municipal sector has also shown interest in the Malyn project. A case study of P3DP’s experience in Malyn, as well as PPP tools, will be shared to help guide efforts of municipalities in engaging the private sector to introduce the technology to public buildings. The UNDP project will run for four years, ensuring that the lessons learned from the Malyn pilot continue to benefit Ukraine.

RISKS AND MITIGATION

Technical and political risks have largely been mitigated. The key remaining risk is that budget constraints could possibly lead to the inability of the municipality to pay the private sector partner in a consistent and timely manner. P3DP reviewed local budgets and determined that the city currently has the resources to pay for long-term service and provide advice and support to the project.

EXPECTED PROJECT RESULTS

P3DP’s studies show that using straw or wood pellets as a substitute for natural gas is economically feasible and does not present health risks to the public. Furthermore, improved heating efficiency will enable Malyn to increase temperatures at its schools, which can reduce student absenteeism due to illness. Other expected benefits include:

- The Project successfully tested Ukraine’s PPP procedure, implemented with P3DP support;
- Municipal energy costs should fall by at least 10 percent;
- Over 1,600 students and teachers will benefit from warmer and more reliable heating;
- Carbon emissions will be reduced by over 11,000 tons over the life of the project;
- The feasibility of using wood or straw pellets as a carbon-neutral renewable fuel source will be demonstrated in Ukraine;
- Attraction of nearly $150,000 in new investments and creation of four new jobs; and
- Ukraine’s energy independence will be strengthened by demonstrating a highly replicable model.
Solid Waste Management

The Government of Ukraine aims to reform its highly-inefficient solid waste management sector. By involving the private sector through PPPs, government can reduce costs, increase recycling, introduce new technologies, improve management, and protect public health and the environment. P3DP has collaborated with the National Commission for Communal Services Regulation and the Ministry of Regional Development, Housing and Communal Services to establish a rational, clear, and consistent SWM tariff methodology for the disposal of waste at municipal landfills, an essential factor for successful public-private partnerships in the sector.

A promising component of a comprehensive SWM strategy is generating power by harnessing harmful methane gas produced by landfills. This approach enhances not only produces energy, but reduces negative environmental impact and contributes to long-term maintenance and post-closure activities on the landfill. P3DP is working with municipal governments in both Vinnytsia and Ivano-Frankivsk to develop PPPs that harness biogas emissions as part of their comprehensive SWM systems.

4.2. Vinnytsia SWM and Landfill Gas Utilization Project

BACKGROUND

Vinnytsia, a city of 370,000 located 260 km west of Kyiv, plans to generate electricity using landfill gas at an existing municipal landfill through a PPP. Earnings from the produced electricity will be used to re-cultivate and close down the landfill once its capacity expires and provide resources for post-closure care. This is important for addressing long-term environmental safety at closed landfills. In addition, the city will reduce its carbon emissions and need for power generated from more polluting sources.

The project will require installation of new equipment at the existing municipal landfill to combine the current biogas flaring system with a newly-built electrical generation system. P3DP developed a financial model for the project to forecast potential proceeds of electricity sales at a higher “green tariff,” and identifying what maintenance, closure and post-closure measures the city can reasonably request from the private partner. P3DP also conducted legal and environmental assessments, prepared the feasibility study and tendering documents, and defined key provisions of the PPP agreement. P3DP also conducted study tours to demonstrate
best practices of SWM in Hungary and Austria, which significantly improved the city’s understanding of PPPs. A Build-Own-Operate-Transfer (BOOT) PPP agreement structure was recommended for the project.

In October 2013, the Vinnytsia City Executive Committee approved the PPP Appraisal Opinion and submitted the PPP package to both the MOEDT’s PPP Unit and the Ministry of Finance. Over a two-month period, P3DP worked with the agencies by providing necessary information about the benefits of the project and relevant legal requirements and procedures. The project was approved by the Ministry of Finance in December 2013.

MOEDT’s PPP Unit approved the project feasibility study submitted by P3DP, allowing the Vinnytsia City Council to proceed with developing the project. In February 2014, the Vinnytsia City Council voted in favor of the PPP. The decision initiated the pre-tender stage, during which all necessary documents will be prepared prior to tender.

P3DP has been helping the Committee finalize the tender documents package, including the draft PPP agreement, tender instructions for bidders, and qualification criteria for evaluation of bids. These were submitted to the municipality for review. The environmental assessment was drafted and approved by USAID. The Municipal Working Group amended the tender package and is currently working to prepare official tender decisions by the City Council. The tender is expected in Year 5.

**ACTIVITY DURING THE REPORTING PERIOD**

At the request of the municipality, P3DP updated the financial model to reflect current currency exchange rates, inflation, costs, solid waste collection and utilization tariffs, and projected revenue. The financial model changes the project scope and requires a number of decisions to be made by the municipality related to landfill operations. These are expected in Y5Q2. P3DP will then update the feasibility study and tender documents, which will allow the city to announce the tender.

**RISKS AND MITIGATION**

The main risks to this PPP include:

- Possible failure to obtain the higher “green tariff” rates, which is an important incentive for private companies participation. Failure to obtain the higher rates will lower the expected return on investment, and hence lower private sector interest;
- A long approval process, creating exposure to unforeseen *force majeure* events;
- A lower-than-expected supply of biogas at the landfill, which could decrease expected revenue from the PPP.
To mitigate current risks, P3DP is taking the following actions:

- Pressing public authorities to accelerate the PPP project to ensure that approvals, tender and physical construction are completed in a reasonable timeframe. This will enable the operator to apply for the higher green tariff;
- Working closely with the public partner to ensure transparent bidding and provide support in gaining approvals at the national and local level on behalf of the winning bidder;
- Advocating that the PPP contract include compensation mechanisms that obligate the public partner to cover specific costs should the private operator fail to collect and extract sufficient amount of biogas from the landfill.

EXPECTED RESULTS

- The project will reduce the need for power from more polluting sources, resulting in reduced gas emissions equaling 20,000 tons of carbon dioxide annually by utilizing methane, which is many times more hazardous than carbon dioxide;
- 380,000 citizens will benefit from better landfill maintenance and a healthier environment at and near the landfill;
- Investments of up to $2 million are expected, with six new jobs created. The state will benefit from UAH 60 million in taxes during the life of the project;
- The private partner will assume responsibility of the existing landfill, freeing the city to build a new one;
- Once implemented, the development of this successful project will serve as a roadmap for replication elsewhere in Ukraine.

4.3. Ivano-Frankivsk SWM Landfill Gas Treatment and Electricity Production Project

BACKGROUND

In 2013, a market operator determined that a landfill in Ivano-Frankivsk, a city of 220,000 in western Ukraine, generates sufficient gas for generating electricity. Discussions between P3DP, the Mayor and Governor led to development of a pilot PPP project. A private operator will be responsible for designing, financing, building and operating an electrical generation facility for a
fixed term sufficient for extracting all produced biogas, estimated to be about 15 years after closure of the landfill.

P3DP prepared the PPP Concept Paper and began work on the feasibility study. The paper outlines the general structure of the project and provides technical and financial assumptions for the future facilities related to biogas treatment and electricity production. P3DP recommended a Build-Own-Operate-Transfer (BOOT) PPP for the project.

The PPP Pilot Project in Ivano-Frankivsk was delayed by the political crisis, which impacted both the municipality and the Ivano-Frankivsk regional administration. However, on March 20, 2014, the Executive Committee of Ivano-Frankivsk approved a decision to begin preparation of the Pilot PPP Project with P3DP support. P3DP began work on the feasibility study, and a draft was completed in August. The financial and legal options of the facility and landfill re-cultivation were analyzed.

In June, the municipality committed 100,000 UAH to contract the engineering firm that will prepare technical documents and terms of construction of the grid. The cost, technical, and environmental requirements for connecting the PPP’s power generation facility to the electricity grid were also determined. Electricity generated by the project will be eligible for application of the higher “green tariff” rates, making alternative energy projects more attractive to private investors.

ACTIVITY DURING THE REPORTING PERIOD

The municipality provided comments on the draft feasibility study, which was finalized by P3DP after numerous discussions with Ivano-Frankivsk officials and lawyers. The next step is for City Council and Executive Committee to approve the PPP Appraisal Opinion and initiate the PPP competitive tendering process. P3DP has been working with the city to prepare the necessary documentation and expects the tender to move forward in Y5Q2.

RISKS AND MITIGATION

The risks that this pilot PPP faces include:

- Political conflicts at both the regional and municipal level in Ivano-Frankivsk, compounded by national security issues that may delay project implementation;
- Failure by the public partner to construct the electricity grid from the landfill to electric utility on a timely basis.
To mitigate these risks, P3DP is taking the following actions:

- P3DP maintains close contact with two key stakeholders: the Ivano-Frankivsk municipality and the Ivano-Frankivsk Regional State Administration to facilitate progress on the project;
- P3DP is closely monitoring the political situation in Ivano-Frankivsk and provision of relevant technical and legal information to stakeholders.

EXPECTED RESULTS

- 220,000 citizens will benefit from greater environmental safety;
- Investments of up to $2 million are expected, with six new jobs created;
- Generation of electricity using landfill gas will reduce the need for coal-powered electricity, reducing carbon emissions by over 450,000 metric tons of CO2 equivalent.

Parks & Recreation

Municipal governments in Ukraine typically do not have funds or management capacity to maintain and operate sports and recreation facilities, including public parks with green areas. As a result, facilities in many public recreation areas are falling into disrepair. By bringing in the private sector through PPPs, local governments can obtain both financing and operational expertise necessary so that the public can enjoy parks, sports facilities, and other recreational areas.

P3DP has supported two pilot PPP projects to demonstrate how this can be done. Unfortunately, the Simferopol Urban Park Renewal PPP could not be completed because of the Russian occupation of Crimea. The second pilot, the Kyiv Summer Sports & Recreation Facility, was successfully implemented.

4.4. Kyiv Summer Sports and Recreation Facility

BACKGROUND

In 2013, the Kyiv City State Administration (KCSA) requested P3DP’s assistance with a PPP project to create a sports and recreation zone at Dolobetsky Island, located in Kyiv in the Dnipro River. An area of 10.5 hectares was to be made available to a private investor to construct
several playgrounds and mobile stadiums – light construction without fixed foundations – while maintaining existing facilities, such as a first aid medical facility, trading pavilion, and several administrative buildings. Although Kyiv has a mechanism for working with private companies on municipal-owned facilities, it needed a structure suitable for a more complex, long-term transaction that allocates risks and requires capital investments for new facilities. Furthermore, the island is an environmentally sensitive territory and public opinion against its improper development is passionate.

Following P3DP’s review of the project feasibility study conducted by the KCSA, the Economics and Investments Department requested P3DP to assist with the tender and PPP contract preparation and conduct stakeholder communication activities to inform stakeholders about project benefits. P3DP commented on the draft contract and provided recommendations on the tender package. P3DP also provided strategic communications support to inform the public about the project. P3DP recommended a Build-Own-Operate PPP contract. The project went to tender in July 2013 and publicized in accordance with all required procedures. Although only one bid was received; the city selection committee determined the company was technically qualified and that their proposed approach would bring value and be in the best interests of the public. The contract was signed with the Kyiv-based firm Misto Sportu Ltd.

P3DP submitted data for the Environmental Review for the project. The project meets national environmental impact guidelines, as well as improves facilities and protects green areas in and around the park. P3DP reviewed the site of the Kyiv Recreational Facility PPP with international expert Chris Shugart in May 2014. The selected private partner constructed temporary sports facilities and is maintaining green areas. General improvements, including walkways, were co-financed by the operator and the city. P3DP will continue to monitor progress of implementation and performance.

ACTIVITY DURING THE REPORTING PERIOD

The project has successfully completed tender and award and is in the operational phase. P3DP visited the facility as part of USAID’s independent evaluation of the program on September 30 with USAID and the Chief Environmental Officer from DC. Facilities were operational. P3DP will continue to monitor the project, especially noting environmental impacts and facility access and related gender issues.

RISKS AND MITIGATION

During development, the project carried the following risks:

- Low public opinion of the project, which is located in a popular summer leisure area. The public was also opposed to existing kiosks, which were selling alcoholic beverages without necessary permits and contributing to an unsafe environment;
• Low occupancy of facilities due to overall slow economy and unrest;
• Unexpected requirements from the new mayor’s administration.

P3DP successfully mitigated these risks as follows:

• P3DP successfully demonstrated that the project required long-term operations of the facilities rather than installation alone, and that this could be achieved by including PPP components into tender and contract;
• With P3DP support and guidance, the Kyiv municipality was able to develop the project in a timely manner and take it to tender. P3DP’s efforts increase the interest of the Head of Kyiv’s municipal administration in successfully implementing this type of project;
• P3DP provided strategic stakeholder communications support to the Kyiv’s municipal administration to increase awareness of PPPs and highlight project benefits for the public’s health and leisure. This effort was well-received by the public.

RESULTS

• Citizens of Kyiv have access to an improved, clean public beach, safe access to the Dnipro river, quality facilities for beach soccer, football and other sports on Dolobetsky island;
• Total investments are expected to reach $4.5 million. The city spent UAH 20 million; the private operator invested about $16 million UAH.
• Five new jobs have been created, with up to 10 more expected.
• Illegal bars and construction that can harm the environment have been dismantled;
• Most facilities are available free of charge to the public.

Urban Transportation

With steady increases in the number of cars per capita and poor urban planning, driving in Ukrainian cities has become increasingly difficult, contributing to congestion, increased pollution, and reduced quality of life for Ukrainian citizens. The negative impact caused by inadequacy of public transportation infrastructure is magnified by the lack of parking facilities.

P3DP is addressing this challenge in Lviv with a pilot PPP to build a parking facility to reduce congestion in the city center. Many municipal leaders from other cities have expressed interest in the project to serve as a “roadmap” as they look for ways to address traffic and parking issues in their respective cities.
4.7. Lviv Parking Management

BACKGROUND

The lack of parking spaces in central Lviv has led to serious traffic problems that are difficult for drivers and pedestrians alike. P3DP is supporting the Lviv city government in developing Ukraine’s first parking management PPP for a multi-level underground garage. This requires revisions to parking legislation, better enforcement of parking regulations, and identifying a private sector partner to finance, build and operate the facility. P3DP worked with the transportation department and the city’s Investment Department to implement the project through a PPP mechanism. P3DP recommended a Design-Build-Finance-Operate (DBFO) PPP structure for this project, and is considering a concession.

P3DP completed a cost and engineering design report and provided a tentative design for the facility in June 2014. P3DP updated the financial model to learn which financial scenarios can be applied, which expected tariffs level would be feasible, and the recommended project duration. P3DP provided assistance in determining an acceptable level of tariffs and how they should be regulated.

P3DP also prepared a market sounding note that can be used in communications with potential bidders in order to evaluate market potential of the PPP. The city will assess bidder interest using this and other P3DP materials in the coming months. A positive development that will impact the project was the passage of new laws that impose fines for nonpayment of parking fees and allow towing of improperly parked cars. These will encourage use of parking facilities and make the project more economically viable.

ACTIVITY DURING THE REPORTING PERIOD

P3DP met city representatives in Y5Q1 and discussed further steps related to market sounding meetings and public outreach. The market sounding note package was distributed among potential investors/operators. P3DP prepared a draft strategic communications plan and submitted it to city officials. Public outreach is expected to begin with a workshop in March 2015 after obtaining feedback and reviewing feedback from potential bidders.
RISKS AND MITIGATION

Lviv parking PPP possesses a number of risks:

- The city of Lviv has complex geological and historical underground structures with numerous historical items located underneath the city center;
- The city may be unable to implement parking policies. Drivers may therefore seek free parking spaces on the street, leaving the underground garage without revenue;
- Required changes to legislation may be delayed or not take place, such as modifications to the Administrative Code and other laws;
- The private operator may fail to collect enough revenue to cover its costs;
- The project may encounter opposition from the general public or specific NGOs.

P3DP mitigated these risks as follows:

- Engineering consultants were hired to assess project technical viability. While P3DP was preparing the initial Concept Paper, city architects were consulted to minimize chances that shortlisted locations would contain historical objects or underground water flows;
- P3DP monitored the results of the Lviv Municipality’s adoption of local resolutions implementing first steps in parking policies, such as collecting fees from users and disabling illegal parking sites. These were successful, suggesting that it will be possible to enforce parking regulations in the future;
- P3DP has monitored legislative changes in urban parking by certain municipalities and ministries. These suggest that required changes are feasible;
- P3DP recommended that the PPP agreement include compensation mechanisms that obligate the public partner to provide payments should the private partner not collect enough revenue as a result of poor parking law enforcement practices or inability to prohibit parking in the surrounding area. It should also include subsidy and profit sharing mechanisms;
- Limited assistance to develop this project is currently planned. P3DP will provide guidance and support in future stakeholder communication efforts to identify concerns of groups and highlight potential benefits of the project; and a preliminary environmental review will be completed to highlight issues that need to be addressed by the city prior to moving ahead with the project.

EXPECTED RESULTS

- The project may attract up to $20 million in private sector investment with ten new jobs created, depending on the size of the garage;
- Illegal parking will be eliminated in a radius of 200 meters from the facility;
- Traffic congestion will improve in the city center business environment while adding to pedestrian areas;
- On-ground parking for 200 bicycles will be created;
• Lviv’s pilot method for controlling off-street parking while providing for-pay parking may be adopted by other Ukrainian cities. Many cities have expressed interest in learning from Lviv’s efforts to develop the pilot, even if it does not complete tendering.

Education

Since the late 1990s, schools in Ukraine have suffered from a rapid decline in population, a lack of funds, and low disposable incomes. Private sector participation in the education sector has the potential to help government better allocate existing and find new resources to improve the educational system.

Education PPPs can help governments obtain the resources necessary for modernizing, operating, maintaining and managing educational facilities in partnership with the private sector, which enables school leadership to focus on the content and quality of education.

4.8. Kyiv Maintenance of Educational Facilities PPP

BACKGROUND

The Kyiv Education PPP demonstrates how thorough due diligence during the design stage of a PPP can identify issues in a timely manner, thereby enabling government to restructure the transaction in a more viable manner. City officials initially sought a PPP in which a private operator would build or renovate a kindergarten that charges fees and manages it. Working with city authorities, P3DP completed business and financial models, market testing meetings, and legal reviews. P3DP’s findings identified a financial “viability gap” and that a government subsidy would be necessary for the project to be attractive to private investors. They also revealed that under existing legislation, the transaction process would be lengthy and cumbersome. P3DP and the City concluded that a new concept would be necessary.

During Year 4, P3DP and the Kyiv City State Administration (KCSA) revised the PPP concept to contract out maintenance and operations of educational facilities in Kyiv’s Podil district of Kyiv to a private sector operator. The operator is to provide utility, maintenance and related services to all education facilities on a long-term basis. P3DP and the KCSA agreed on a number of key
points related to the project, including the general approach, implementation schedule, and approval authority of various municipal departments. The Kyiv Department of Education will be the contracting authority.

P3DP’s legal expert completed the analysis and initial draft of the legal concept for the project. The optimal type of contract and other legal arrangements between the private operator and municipal partner were determined. The legal concept was submitted to the city for review. Significant work on the draft financial model was prepared drawing from financial data from 78 education facilities. The data included payments for utilities, maintenance services and all adjacent services with breakdowns for different education facilities.

Political changes had an impact on the process. In 2014, Kyiv elected a new mayor following the ouster of the Yanukovich government and the work of city department staff was occupied with administrative change issues. The PPP pilot lost its priority and progress at the municipal level was delayed. Regardless, P3DP submitted financial and business model to the newly-appointed head of KCSA, Mr. Bondarenko. For the pilot to succeed, it needs political support from the new mayor and newly-appointed officials in the Economic and Education Departments. The City has acknowledged that budgets are severely constrained and, as a result of P3DP efforts, private sector resources are now being viewed as an essential tool in many public service areas, including education.

ACTIVITY DURING THE REPORTING PERIOD

The Education Department of the KCSA officially applied to the Podil District Administration and the Finance Department for funding to be committed in the budget to support the PPP project in the long-term, which is critical for ensuring that the operator can be paid. P3DP is working with these bodies to complete the process and proceed with the drafting of PPP documentation. The necessary approvals are expected in Y5Q2. A coordination roundtable is planned for February for the finance, economics and education departments of the Podil District chaired by the Kyiv Deputy Mayor. This is expected to accelerate project progress.

RISKS AND MITIGATION

Several factors create risks that could delay the project:

- The change in Ukraine’s government, KCSA staff changes, and appointment of the newly-elected mayor may continue to delay the project.
- Ukrainian legislation contains numerous provisions that are not optimal for the project, for example, budget legislation that limits long-term contracts with private sector operators.
P3DP is mitigating these risks by:

- Maintaining regular contact with key decision makers in the City government to educate them on PPPs and the project;
- Ensuring that the recommended legal structure for the PPP conforms to state procurement and communal services legislation. The legal model recommends creation of a KCSA budgetary program to ensure long-term financing of facility maintenance;
- Proposing services under the PPP that are fully covered in the city budget. At the same time, P3DP, under Objective 1, is continuing efforts to modify the budget code to enable long-term contracts with private operators.

EXPECTED RESULTS

- The project will have powerful demonstration effects for the use of PPPs in the educational sector and other areas where the municipality manages assets, with good prospects for replication elsewhere in Ukraine;
- Legislative issues affecting education PPPs will be identified as a result of this pilot;
- Educational facilities will be more effectively managed, with maintenance and operations conducted by private operators with the necessary skills and expertise.

Healthcare

The state-run healthcare system in Ukraine, which guarantees free healthcare to all citizens, faces serious constraints at every level. Funding, facilities, equipment and supplies are inadequate. Doctors are poorly paid and do not have access to modern equipment. Healthcare management is inefficient and encourages corrupt practices. The Ukrainian healthcare system provides poor service and creates a heavy financial burden to the state. Patients also suffer because they have to pay doctors unofficially and buy their own medicine. Private sector funding, expertise and technology mobilized through public-private partnerships can help address these issues and improve the overall quality of medical services.
4.9. Zaporizhia Healthcare PPP

BACKGROUND

P3DP is working with the municipal government of Zaporizhia to create Ukraine’s first healthcare PPP. The project envisages sharing hospital space with a private partner that will renovate facilities, procure modern equipment, and introduce new surgical techniques. The project is expected to attract $2 million over the 25-year life of the project. If successful, the project has the potential to be replicated elsewhere in Ukraine. The hospital’s legal status will remain unchanged and will not affect the free services it provides.

P3DP is playing a central role in this project. In close collaboration with the city, P3DP designed and structured a PPP project that will deliver significant benefits to citizens without imposing additional costs to the city. Sections of the hospital will be rehabilitated and will obtain new equipment. The amount and quality of medical services in the hospital will increase, taxes and other financial benefits will accrue to local and state budgets, and most importantly, patients will benefit from a wider variety of treatments. P3DP recommended a Lease-Rent-Operate-Transfer (LROT) structure for this project. It prepared the feasibility study, including the legal review, business model and financial plan. It also increased the capacity of municipal representatives on PPP issues through conferences and training.

P3DP prepared and submitted the Appraisal Opinion and full PPP package to the Zaporizhya City Executive Committee, including the feasibility study, legal review, business model, and financial model. The project experienced some delays because of the political crisis, which led to protests and a partial work stoppage of the City Council and Zaporizhya Regional Administration. Changes in regional and municipal leadership, as well as local political struggles, further slowed down the process. Reforms to the healthcare administrative system, which shifted responsibility for the hospital, including its budget, to the Zaporizhya Regional Administration, also caused some delay. These changes introduced new decision makers and broadened and increased the need for effective stakeholder communication.

In response to administrative changes in Zaporizhia’s healthcare administration, P3DP conducted a review of the benefits of the envisioned PPP with both the City Council and Regional State Administration to highlight the benefits the project will bring to the community,
recommended a legal structure that defends the public interest, clarify project accomplishments, and identified actions necessary for its successful development. Unfortunately, the champion of this project, Deputy Mayor Kaptyukh, passed away unexpectedly. This, as well as local political issues, has delayed final approval by the City Executive Committee. Upon approval, the project package will be submitted to the PPP Unit of the MOEDT and the Ministry of Finance.

**PPPs in Healthcare**

During Y5Q2 P3DP worked with the Ministry of Health and publicized the value of PPPs in the healthcare sector at several conferences. The Government of Ukraine now recognizes that the private sector can contribute to healthcare sector reform through PPPs and have the potential to assist municipal and state hospitals in their efforts to improve services. Through its participation in a working group drafting measures for healthcare reform, P3DP has laid the groundwork for better collaboration with the new Minister of Health.

Zaporizhia region possesses high potential for economic growth but is currently experiencing sporadic incidents of unrest and conflict. After months of political instability, P3DP discussed the project with the newly-appointed Deputy Mayor Kuzmin in August 2014, who stated that he will champion the city’s healthcare PPP project. Later that month, the City Executive Council began evaluating the Feasibility Study. Once it reaches consensus, it plans to submit the Appraisal Opinion to the MOEDT’s PPP unit for review.

**ACTIVITY DURING THE REPORTING PERIOD**

The project was temporarily delayed because of social and political disturbances in Zaporizhia. Refugees from the war in Donbas required assistance and security issues needed to be addressed. The Mayor was accused of corruption and links with organized crime, which led to protesters picketing City Hall demanding his resignation. P3DP plans to visit the city in February 2015 to assess the situation and work with city officials to develop a timetable for the remainder of the PPP process.

**RISKS AND MITIGATION**

The Zaporizhya healthcare PPP Project bears the following risks:

- Local political conflicts, civil unrest, as well as frequent change in local leadership may continue longer than expected, which may result in further delays to the project;
- State medical reform is moving extremely slowly due to shifting priorities, which may jeopardize the project. Funding of hospitals may be transferred from municipality to regional budget and responsibility;
- The public may not understand the introduced fee-based services.

P3DP is mitigating these risks as follows:

- P3DP met with both the Mayor and representatives of the Governor of Zaporizhya to provide reassurance that the project is well-structured and employs a model that conforms to Ukrainian law, verified by P3DP’s legal consultants;
- P3DP continues to monitor progress on state medical reform;
- P3DP has conducted numerous meetings with project stakeholders, hospital staff and future patients and is ready to organize additional stakeholder events and communication programs to address their concerns.

EXPECTED RESULTS

- This will be the first healthcare PPP in Ukraine, opening the door for greater private sector participation in the sector;
- Up to $2 million in private investment may be mobilized, creating 50 new jobs;
- Citizens of Zaporizhya will benefit from new and higher quality existing healthcare services;
- Tax revenues could bring UAH 100 million to the city and national government over the life of the project.

4.11 Objective 4 Plans for Y5Q2

During Y5Q2, P3DP plans to:

- Monitor progress on the Kyiv Dolobetsky and Malyn pilots;
- Create lessons learned in the Parks & Recreation, Solid Waste Management/Biogas, and Alternative Fuel heating sectors;
- Work with the city on political decisions to be taken by the Ivano-Frankivsk City Executive Committee (February) and City Council (March) for the landfill gas pilot PPP;
- Prepare for training and the awareness campaign for the Lviv Parking pilot;
- Support Vinnytsia municipality in completing the financial model, feasibility study and its tender for the SWM pilot PPP;
- Monitor the security situation in Zaporizhya and push forward on political decisions if possible. Begin to capture lessons learned on healthcare PPPs;
- Work with KCSA on the Kyiv Education pilot. The Round table chaired by Deputy Mayor is expected to move the project further, with a political decision expected in Y5Q3.
PROGRAM ADMINISTRATION

P3DP recognizes the importance of a well-functioning administrative support system that effectively supports technical staff and experts. Effective hiring and staff development is a priority for P3DP to ensure that its finance, compliance, procurement, logistics, human resources and other administrative functions contribute to the program meeting its objectives. Program administration also ensures that P3DP complies with both USAID and Ukrainian regulations.

FHI360 Internal Evaluation

During the period of December 8 – 12, the FHI 360 Office of Compliance and Internal Audit performed an internal audit of P3DP project. Yasser Luxor and Valerie Polyakov represented the audit team. The scope of this audit covered the 13-month-period from October 1, 2013 – October 31, 2014.

The audit focused on the identification of programmatic and financial risks inherent in the projects and included discussions with management concerning policies, procedures, and risks. In addition, auditors reviewed processes over travel and workshop expenses, personnel records, labor reporting and allocation, procurement, cash management, asset management, sub-recipient monitoring and IT general controls, as well as supporting documentation for selected samples. As part of the assignment, auditors made several monitoring visits to KEI, a P3DP sub-recipient and conducted Compliance Training for the entire P3DP team. The report is due in Y5Q2.

External P3DP Program Evaluation

In October and November, Mendez England & Associates and NORC at the University of Chicago conducted an independent evaluation of P3DP on behalf of USAID. Its purpose was to assess the relevance, effectiveness and efficiency of P3DP activities in promoting the use of PPPs in Ukraine to improve infrastructure and public services. The evaluators met with the P3DP team, USAID, key stakeholders from government, the private sector, NGOs, donors, and visited four pilot PPP locations (Kyiv, Vinnytsia, Malyn and Lviv). Their full report is expected to be completed in the second quarter of Year 5.

Staff changes

No staff changes took place during the reporting period, but reductions in administrative support are expected in Y5Q2.
ANNEXES

Annex 1: P3DP Y5Q1 Performance Monitoring Report

Annex 2: Addendum to P3DP Work Plan Year 5

Annex 3: Legislation Development Meetings conducted during Y5Q1


Annex 5: Guidance Note #3: Dispute Resolution and Municipal PPPs in Ukraine

Annex 6: Aide Memoire - The Practice of Private Partner Involvement in the Heating Supply System on the Basis of a Public Private Partnership (ACC PIEC, December 17, 2014)

Annex 7: Malyn Heating Supply PPP Project Case Study

Annex 8: “Train the PPP Trainer” Training (November 3, 2014)