

The slide is a title slide for a webinar. It features the King & Spalding logo in the top right corner. The main title is "Best Practices to Avoid PPP Disputes - from an International Perspective" in a large, bold, black font. Below the title, it says "Webinar on Law on Investment in the form of Public Private Partnership (PPP)" in a smaller font. The location and date are listed as "HCMC, Vietnam" and "8 August 2020". The speaker's name, "K. Luan Tran", and his title, "Partner, King & Spalding LLP", are at the bottom right. A small "1" is in the bottom right corner of the slide area. There is also a small "For Educational Use Only" text at the bottom left of the slide area.

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# Best Practices to Avoid PPP Disputes - from an International Perspective

Webinar on Law on Investment in the  
form of Public Private Partnership (PPP)

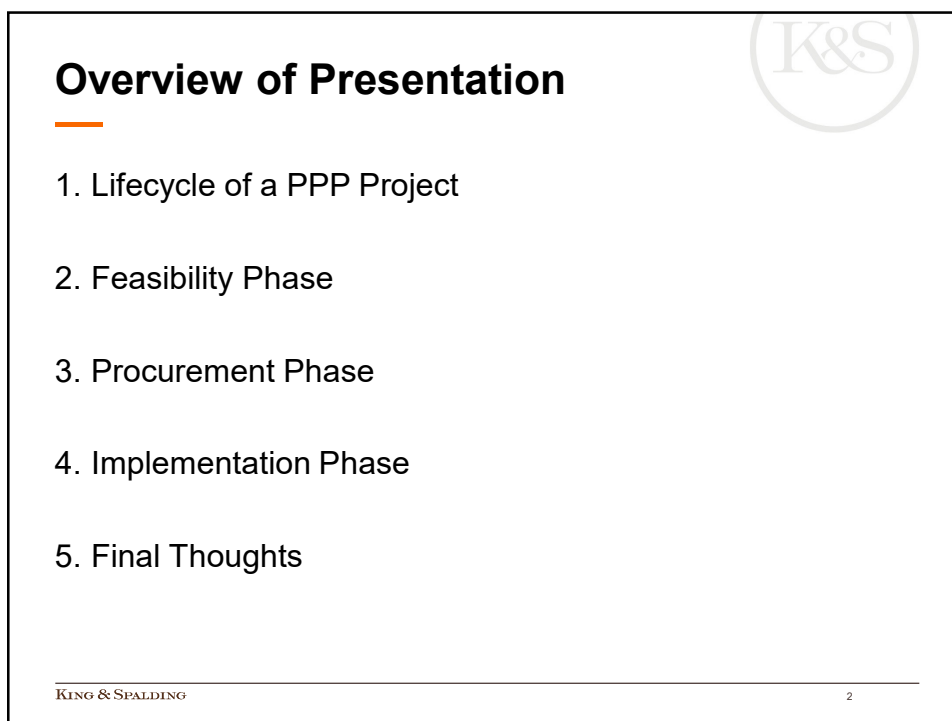
HCMC, Vietnam  
8 August 2020

K. Luan Tran  
Partner, King & Spalding LLP

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The slide is titled "Overview of Presentation" in a large, bold, black font. Below the title, there is a list of five items: "1. Lifecycle of a PPP Project", "2. Feasibility Phase", "3. Procurement Phase", "4. Implementation Phase", and "5. Final Thoughts". The King & Spalding logo is in the top right corner. The King & Spalding logo is also in the bottom left corner. A small "2" is in the bottom right corner of the slide area.

## Overview of Presentation

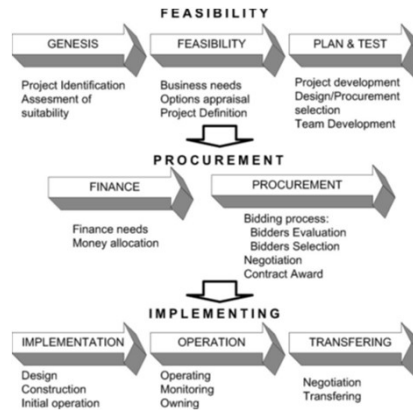
1. Lifecycle of a PPP Project
2. Feasibility Phase
3. Procurement Phase
4. Implementation Phase
5. Final Thoughts

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## Lifecycle of PPP Project



Source: Leadership and Management in Engineering

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## Feasibility Phase: Best Practices

- Government must have comprehensive infrastructure masterplan & adequate process to identify potential PPP project
- Conduct detailed feasibility studies
  - Economic viability (socio-economic benefits)
  - Commercial viability (attractive to sponsors/lenders?)
  - Value for Money (better option than public procurement?)
  - Fiscal responsibility (affordable to public & government?)
  - Ability to manage (can government manage?)
- Case study (CS): toll road issues (Standard & Poor's study)
- Build the right team

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## Procurement Phase: Best Practices

- Create a clear, competitive and transparent process (re timeline for selection, milestones to be met during bidding process, bidding criteria etc.) to attract many domestic and int' bidders
- Bid evaluations conducted by experienced and impartial team of government officials and outside experts
- Strict compliance with applicable procurement/tender laws
  - CS: Mumbai & Delhi airport modernization projects
- Both parties should identify and fairly allocate project risks
- Contract must have clear definition of milestones, payment obligations, dispute resolution process...
  - CS: London Underground/Metronet project

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## Implementation Phase: Best Practices

- Establish contract management structure (appoint qualified PPP contract manager/management team, communication protocol)
- Establish government regulatory agency to oversee PPP
  - CS: Manila water concessions
- Diligently monitor and manage contract compliance and risks
- How to deal with disputes?
  - Act quickly when problem arises
  - Representative with appropriate expertise and authority
  - Follow contract process & look for win-win solutions
- Clear provisions on early termination and asset handover
  - CS: Case Studies of Handback Experience with PPP, USDOT

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## Final Thoughts: Keys to Successful PPP

- Have a supportive institutional and regulatory framework
- Create a shared vision & make a fair deal
- Do proper homework (feasibility, selecting private partners...)
- Take advantage of published resources (WB, IMF, UN...)
- Monitor, monitor
- Be transparent & engage the public early and often



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## Overview of King & Spalding and its Construction & IA Practice

- +1,200 lawyers in 21 offices worldwide.
- One of the largest teams of construction & IA lawyers in the world, including several with dual engineering and architects qualifications.
- We often work as “Project Counsel” during construction phase.
- We have advised governments and leading contractors on some of the largest PPP projects in history.
- Three K&S lawyers among “Global Top 25” construction lawyers per *Who’s Who Legal*.
- Ranked No. 1 international arbitration practice worldwide by *Global Arbitration Review* 2020

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**Education:**  
LL.M., Harvard Law School  
  
LL.M., University of Ottawa, Canada  
  
LL.B., University of Ottawa, Canada



Luan Tran is a partner with King & Spalding's international arbitration practice, recently ranked by the Global Arbitration Review as the number one practice worldwide. He has nearly 25 years of experience in international arbitration. He is among the few first-chair trial and arbitration lawyers with active U.S. and Southeast Asia practices. He has handled complex disputes relating to construction, energy, real estate, and other investment projects before the major arbitral institutions. A frequent speaker and author on Southeast Asia, particularly his native Vietnam, he was recently recognized as a "Trailblazer" by the Recorder for his work in the region. He is based in the firm's Los Angeles and Singapore offices.

Luan was a member of the Board of Directors and is a current member of the Council and Asia and California Advisory Groups of the American Arbitration Association and the International Centre for Dispute Resolution. He was also a member of Law360's International Arbitration Editorial Board.

Luan led the Southeast Asia practice at a previous international law firm, and has lived and worked in Singapore and Vietnam. Luan co-authored the Vietnam chapters for two leading international arbitration publications. He also serves as an arbitrator on Vietnam-related matters, and recently sat as the presiding arbitrator in one of the first-ever ICC hearings in Vietnam.

In addition to his international arbitration experience, Luan is recognized as a leading attorney in ownership and partnership disputes between co-founders of technology companies. In a profile of his work in co-founder lawsuits, such as the Snapchat and Yik Yak matters, Forbes magazine called him the "go-to lawyer" in this area. During his career, Luan has recovered over \$150 million on behalf of plaintiffs in his tech co-founder cases. Tran's experience and success for the plaintiffs gives him significant advantages and insights when representing the defendants.

Luan also co-founded the largest minority-owned disputes law firm in the U.S. (with over 35 attorneys) that was recognized by the National Law Journal as one of the top ten litigation boutiques in the country. Luan has been honored as one of the best attorneys in California and the U.S. by national bar organizations and publications. He is fluent in French and Vietnamese.

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**Thank You**

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