Asia-Pacific
Economic Cooperation

# Guidebook on PPP Frameworks in APEC Region

Investment Experts' Group

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# FOREWORD

The *Guidebook on PPP Framework in APEC Region* was approved by the *Investment Experts' Group* (IEG) as a self-funded project in 2013. The proposal was prepared by IEG Indonesia, as a respond to the rapidly growing infrastructure demand in APEC region.

In the same year, APEC Leaders have also committed to cooperate in developing, maintaining and renewing our physical infrastructure through *Multi Year Plan on Infrastructure Development and Investment* (MYPIDI), to which this guidebook directly corresponds.

We hope this guidebook would be a useful reference for the Asia-Pacific Economic Cooperation (APEC).

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# INTRODUCTION

Infrastructure is one crucial aspect to boost national development and economic growth. Availability of infrastructure is one determining factor for investors in making their decisions, as well as in retaining them. The rapidly growing need of infrastructure and the limited capability of public sector has made governments worldwide increasingly seek private partners for the financing, building, operation and maintenance of such infrastructure, in the form of public-private partnership (PPP). In many economies, PPP have proven to be successful cooperative means for the provision of public infrastructure through investment.

As each economy has its own governmental structure, PPP structure and arrangement are different between one and another. An investor wanting to enter a PPP project must first have a knowledge of PPP scheme in the economy they wish to invest. It should understand the overall process and basic requirements to set up a project. A private partner candidate, for example, must understand the bidding and procurement process, legal and regulatory environment, government institutions involved and their respective responsibilities and liabilities, government support, and dispute resolution mechanism. Therefore, they should be able to easily obtain such information.

This project directly corresponds with APEC 2013 priority to strengthen the connectivity through infrastructure development. By providing an overview of PPP frameworks in APEC economies, this guidebook is expected to expand information accessibility for potential private parties and raise their interests to get into PPP projects.

As a facilitatory and promotion tool in increasing awareness of investment opportunities through PPP, the guidebook is also in line with the Osaka Action Agenda and facilitation pillar of investment at the *Investment Experts' Group*.

The aim of this guidebook is to compile information on PPP frameworks in APEC member economies into a single information as a facilitatory tool for investment. The guidebook will provide a general overview of the process and requirements within PPP frameworks in order to establish a PPP project.

Each framework covers four sections: (1) legal and regulatory structures; (2) project structure and development; (3) project support, financing and management; and (4) related policies. The framework also enlists ready-to-offer projects in each economy.

The guidebook serves 3 (three) key objectives:

1. To compile and present a comprehensive overview of PPP schemes in infrastructure in APEC economies, as a starting point to facilitate potential APEC-wide investor and other parties who seeks such information.
2. To attract investors in setting up PPP projects in APEC economies.
3. To initiate a living database of PPP guide in each APEC economy.

This guidebook will become a living document as economies will be able to update information regarding their PPP.

# SUMMARY

## Section I. Legal and Regulatory Structures

### 1. Legal and Regulatory Framework

The regulatory framework for Public Private Partnership (PPP) on infrastructure varies among APEC economies. Most economies have established specific legislative or regulation at different levels as legal basis for implementing PPP procurement. There is a national PPP policy framework such as implemented in Australia, Papua New Guinea, Peru, Brunei Darussalam, and Japan. Or, a there is a specific law on PPP, as applied in Chinese Taipei, Mexico, and Vietnam. At the lower level, PPP is regulated with presidential decree such as applied in Indonesia. These laws are usually followed by technical regulations on PPP.

Other economies have not established specific laws for PPP procurement. The implementation of PPP is applied as an option of infrastructure procurement model. PPP projects are implemented under other regulations in related sectors such as public works, government procurement, or investment. Among the economies are Canada (under Financial Administration Act and Treasury Board Policy), Malaysia (under Malaysia Incorporated Policy and Privatization Policy), the Philippines (under An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes), and Singapore (under The Government Procurement Act and Regulations).

### 2. Involved Government Agency

In almost all APEC economies, the implementation of PPP procurement involves all governmental levels, from federal/central government to states, provinces and local government, in which their roles are conducted according to their respective authority/responsible areas.

In federal/central government level, the implementation of PPP involves related ministries/ government agencies such as Ministry of Finance, the Treasury, Ministry of Public Work, National Development Planning Agency. In addition, specific authorities dedicated to PPP development are available or established in some economies. In the lower level, there are also a number of agencies or units designated to undertake or related to PPP projects procurement. If established within a decentralised government, these agencies/units play the same role with that in the federal/central government.

A PPP agency/unit itself also serves multiple roles. It might participate in project planning or become the initiator of the project, provide supporting fund/works, or assist the government in monitoring project delivery.

### 3. Supporting Agencies

A number of agencies with specific role in supporting the implementation of PPP projects are available in most of these APEC economies. In general, their role is directly related to the establishment of the projects, for instance, supporting selection of well-developed PPP

projects, retaining specialized consultants, involving in procurement of capital assets, cooperating in term of technical supports, providing financing support to encourage private participation, issuing favorable opinion on the final version on the contract, delivering goverment services to support the implementation of the projects, etc.

Other than agencies supporting PPP domestically, an economy may also set up an agency to promote PPP abroad. The Japanese Ministry of Land, Infrastructure, Transport and Tourism (MLIT), for example, has established Japan Overseas Infrastructure Investment Corporation for Transport and Urban Development (JOIN) for this purpose.

## Section II. Project Structure and Development

### 4. Available Sectors

There are five main sectors commonly offered for PPP: energy; information and communication technologies; transportation; water, and social and commercial which includes health, education, housing and residential, and institutional services.

Transportation, water, waste, health, education, and institutional services are sectors that are mostly offered. Meanwhile, information and communication technology is the least offered, together with housing and residential.

### 5. Eligible Tender Participants / Project Initiator

A company or individual must comply with domestic law in order to participate in PPP. It must meet PPP requirements and also show a strong financial position, with a lot of experience and proven track record in handling PPP projects, especially in infrastructure.

### 6. Types of PPP Structures/ Contract Types

Most economies apply build-operate-transfer (BOT) and similar arrangements:

- Build-Lease-Maintain-Transfer (BLMT)
- Build-Lease-Operate-Maintain-Transfer (BLMOT)
- Build-Lease-Transfer (BLT)
- Build-Operate-Transfer (BOT)
- Build-Own-Operate (BOO)
- Build-Own-Operate-Transfer (BOOT)
- Build-Transfer (BT)
- Build-Transfer-Operate (BTO)
- Contract-Add-Operate (CAO)
- Design-Build-Finance (DBF)
- Design-Build-Finance-Maintain (DBFM)
- Design-Build-Finance-Operate-Maintain (DBFOM)
- Design-Construction-Financing-Operation-Maintenance (DCFOM)
- Development-Operate-Transfer (DOT)
- Operate and Transfer (OT)
- Rehabilitate-Operate-Transfer (ROT)

Other options for PPPs are also used, such as concessions, sales of assets, joint venture, management contract, and outsourcing, as carried out by Peru; or Process Plant Model and Usage Model, as undertaken by Malaysia; and privatization as in Papua New Guinea.

## 7. Types of Project

In general, projects are commonly referred to by its initiator/solicitor. Solicited projects are those initiated by public sector, and unsolicited projects are those initiated by private sector.

Other ways of classifying projects are also available. Projects can be grouped based on its funding resources, operational cost, or scope of priority. By funding resources, a project can be wholly funded by private sector, co-funded by both the private and public sector, or wholly funded by the government. Such classification is applied in Mexico and Peru.

A project can also be grouped by its operational cost, as is used in Japan. It could be financially independent, where the operational cost comes from users revenue. Or, it could be a "purchase of service" type where the operational cost is covered by public sector. It could also be a mixed type of both.

Lastly, by scope of priority, a project can be determined as a national priority or local priority, as implemented in the Philippines.

## 8. Project Stages and Implementation for Solicited and Unsolicited Proposals

In general, solicited PPP projects follow three main stages:

1. Project definition, selection and preparation;
2. Procurement; and
3. Contract and implementation.

Unsolicited projects might have a slight addition in the beginning stage, where private sector submit proposals to appointed public authorities. An approved proposal will then go through competitive procurement process.

Canada is the only economy where all PPP proposals are initiated by the public sector.

## 9. Mechanisms to Engage Private Sector at Project Development Stages

There are many ways to engage private sector during PPP project development phases. Prior to procurement stage, private sector is usually involved in through market sounding or similar convention, followed by an expression of interest. During the procurement stage, private sector are welcomed to make enquiries on the bid, and to review the feasibility study and preliminary plan. They may also access the latest information on the PPP project through official website at any time. These mechanisms are implemented in almost all of economies observed.

## 10. Project Appraisal and Selection Process

Project appraisal and selection process involves at least two stages. A project will firstly be screened and prioritised based on its merits, alignment with infrastructure needs, or local/national priority. Then, further evaluations will be carried out to determine if the project is

eligible, and feasible, for PPP. This can be done through various analysis such as feasibility study and value for money (VFM) calculations.

## Section III. Project Support, Financing, and Management

### 11. Facilities Available to Facilitate Project Structuring and Transaction Advisory

Available facilities vary among the economies, and are generally designated to support financing performance of the projects. The government is commonly involved in the implementation of the projects, despite the economy implements self-financial basis for the private institution.

For infrastructure projects developed under PPP schemes, some economies such as Chile, Indonesia and Vietnam provide facilities in the form of “government support” and “government guarantee”, which consist of fiscal contribution, financial compensation, guarantee to minimum revenue, subsidies, and government support related to land acquisition, along with others. Peru may assume commitment to PPP projects, which covers a “strong-commitment” dedicated to co-finance projects through the PPP contract, in which the State will pay the investor a return for the performance of acts related to project implementation; and commitments on contingent payment in favor of the investor, addressed for self-funded projects.

In economies such as Australia where PPP tenders are generally funded by private participant, the government may provide compensation for unsuccessful shortlist tenders for bid costs. In Chinese Taipei where PPIP projects are implemented on self-financing basis for private institution, the government may provide medium and longterm loans for private institution, subsidise for part of interest accrued from the loan needed by the private institution, or invest in part of the construction. Similarly, Mexico may grant subsidies for private participation in infrastructure projects promoted by Federal Government agencies, which have low financial returns but high social returns. The Federal Government will also give priority in the assessment and procedures regarding the requirement of environmental protection, urban development, construction, etc. In the Philippines, activities related to PPP project implementation is provided with special fund.

Canada, Japan and Singapore provide relatively similar services to facilitate the implementation of PPP projects. The concerned agencies support the implementation of PPP projects (in Canada it should be federal PPP initiatives projects; in Singapore it could be similar PPP projects), among other through deliver advices regarding the procurement options analysis and value of money analysis on federal projects, and provides external advisory firms which are necessary for the preparation and implementation of PPP projects (Canada).

### 12. Role of Local Government

In some economies, local government plays the same role as that of the higher government in terms of PPP project development or investment promotion in PPP, according to their respective authority or responsibility areas. It may become the authority in full charge of PPP projects, as in Chinese Taipei and Japan. It would also play the same role as the national government for projects it sponsored, as practiced in Canada.

Other common roles of local government include performing supportive works related to the implementation of PPP projects, such as preparing funding support, organizing land clearance and land acquisition as well as resettlement, conducting related approvals such as construction permits and land use, and assisting the government to conduct monitoring and supervising of project delivery.

## 13. Risk Sharing Policies/Practices

All economies have a similar principle on risk distribution, that the risk should be allocated optimally or adequately between public and private sectors. That is, to the party with the greatest capacity to manage them best. However, private sector may be bound to bear the risks in, for example, construction, operation, and provision of services.

## 14. Financing Mix Options Allowed

Financing options in PPP projects is similar to the principle of risk distribution. In this definition, both private sector and public is responsible to finance the projects based on the agreements by both parties. Arrangements of PPP financing depends on the policies in each economy. In Canada, financing of PPP projects is 80-90% is funded by debt raised from lenders (usually from bank debt or bond market), while the private sector only contributes about 10-20%. This arrangement aims to ensure private participation in PPP projects, given that sufficient capital is at risk for the private sector consortia to incentivize their involvement in the project and anchor the risk transfer. Substantial payment will be received after projects already operate. In other economies such as Mexico, Malaysia, and China Taipei, the government provides facilities such as subsidies or grant to encourage private participation in financing PPP projects. In the Philippines, Viability Gap Funding is available to solicited project that economically viable but not attractive commercially or financially.

In Papua New Guinea and Peru, private sectors are encouraged to find their own source of fund, usually from capital market or loan from international banks. In some economies, supporting agencies are established with a special task in assist the financing in PPP projects. Indonesia has a dedicated supporting agency to fund PPP projects (PT SMI), a nonbanking financial institution specifically giving funding scheme to infrastructure.

## 15. PPP Promotions/Marketing Mechanism

In all economies, PPP promotions and marketing activities are carried out through events such as market sounding, seminars, roadshows, and discussions to attract private parties. All are also using websites or portals to disseminate information on upcoming and existing PPP projects. Within the PPP process itself, some phases such as Request for Expression of Interest and Request for Qualifications are also undertaken to solicit and assess private sector interest.

One notable action is shown by the Philippines through actively maintaining the social media presence of its PPP Center in order to update and engage stakeholders, and at the same time establishing a good media relations.

## 16. Monitoring and Evaluation

In monitoring and evaluation processes, there are three major approaches commonly done. One is when the processes are carried out by an internal government agency such as Ministry of Finance, Ministry of Public Administration, or National Planning Agency. Economies implementing this mechanism are Chinese Taipei, Malaysia, Mexico, Brunei Darussalam, and Singapore.

Another approach involves a PPP Center. Economies applying this approach are Papua New Guinea and the Philippines. PPP Center in Papua New Guinea directly monitors project adherence to PPP process and identify any need for revisions, while in the Philippines every concerned agency submits the status of each PPP project to PPP Center to be reported annually to the President and the Congress.

Lastly, monitoring and evaluation might involve a third party acting as a neutral observer and is engaged by a mutual agreement from both public and private entity. This approach is used in Canada and Peru.

Monitoring and evaluation might also be carried out based on respective contracts, such as done in Japan.

### 17. Dispute Resolution Mechanism

In all economies, a dispute shall first be resolved by direct negotiation between two parties. If the negotiation fails, the case can be brought to mediation involving a neutral third party. Both parties may then escalate to arbitration if the case are not settled through mediation.

In Peru, a dispute on non-technical matters directly goes to arbitration. A project of 10 to 30 million goes directly to ICSID, or the Arbitration Center of the Chamber of Commerce of Lima.

In Papua New Guinea, all disputes are to be settled through its court systems, while in the Philippines, alternative dispute resolution mechanisms are highly encouraged.

## Section IV. Related Policies

### 18. Land Acquisition

Land acquisition process for PPP projects is the responsibility of the government agency. In order to become available and ready to be offered to investors, the land must be cleared and meet several requirements. The government agencies responsible in this stage vary between economies, but generally both central and local government is greatly involved according to laws and regulations in their respective economy.

In Canada, land acquisition process is customary and become pre-requisite before entering agreement with the private entity. Based on domestic laws that regulate land acquisition processes, government has the duty to purchase land and property based on fair market price. In the Philippines, besides regulating that fair compensation is reached in land acquisition, respective government agencies should also establish and develop relocation sites.

Private sector is also allowed to purchase land and property by itself, while government supporting this action within the laws that applicable, as is implemented in Chile, Mexico and Peru.

## 19. Foreign Ownership Shares

All economies are generally open to foreign participation in PPP. There might be certain sectors, though, which are nationally sensitive and limited to foreign investors, such as energy, telecommunication, and transportation. Economies such as Australia, Canada, Indonesia and the Philippines stipulate these limitations in their investment policy. In Indonesia, foreign capital ownership are open to 95% in power plants, electricity, toll road, and waste management. In telecommunications network, foreign participation is allowed up to 65%, and for port facilities and airport services to a maximum of 49%. In the Philippines, foreign participation is allowed in the PPP consortium, with at least 60% of the share is owned by locals. PPP project proponent must be Filipinos.

Mexico clearly states that foreign participation is closed for energy sector, while Chile and Peru open up all sectors to foreign investment in PPP.

## 20. Nature/Scope of PPP Capacity Building Intervention/Programs

Capacity building programs in PPP is usually carried out by a dedicated PPP Centre in each economy. In general, the PPP centre regularly holds trainings and seminars to public sector in order to disseminate knowledge, information and experience about best practices in implementing PPP projects taking place in their respective economies. It also develop guidelines and references on PPP cycles and implementation for that purpose.

A PPP centre may also perform other tasks. In Canada, the scope of these upgrading programs is also focused on financing aspect. The Canada P3 Fund serves as a dedicated federal infrastructure program aimed at providing financial support towards public infrastructure projects delivered under PPP model.

# PPP FRAMEWORKS

# 1. AUSTRALIA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | • National Public Private Partnerships Policy and Guidelines (29 November 2008) <http://www.infrastructureaustralia.gov.au/public_private/> |
| **2.** | **Involved Government Agencies** | • The Treasury (Commonwealth)<br>• The Treasury (NSW)<br>• Department of Treasury and Finance (VIC)<br>• Queensland Treasury and Trade<br>• Department of Treasury (WA)<br>• Department of Treasury and Finance (SA)<br>• Department of Treasury and Finance (TAS)<br>• Chief Minister and Treasury Directorate (ACT)<br>• Department of Treasury and Finance (NT)<br>• Department of Infrastructure and Regional Development (Commonwealth)<br>• Department of Planning and Infrastructure (NSW)<br>• Department of Planning, Transport and Local Infrastructure (VIC)<br>• Commonwealth, State and Territory Departments of Infrastructure<br>• State and Territory Planning Departments<br>• Infrastructure Australia<br>• Infrastructure NSW |
| **3.** | **Supporting Agencies** | • Infrastructure Financing Unit (NSW Treasury)<br>• Major Projects Victoria (VIC)<br>• Partnerships Victoria (VIC)<br>• Shareholder Policy and Markets Branch (Department of Treasury and Finance, Tasmania) |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 4. | **Available Sectors** | • Transportation<br>• Water<br>• Health<br>• Education<br>• Law and Order |
| 5. | **Eligible Tender Participants / Project Initiator** | • Open, transparent tender process led by government<br>• Unsolicited Proposal Guidelines (see for example, NSW and Victoria)<br>• For private sector initiatives, guidance includes<br>- Availability payment models<br>- Previously, in the roads sector, demand risk transfer models |
| 6. | **Types of PPP Structures/ Contract Types** | • BOOT (Build, Own, Operate, Transfer) |
| 7. | **Types of Project** | • Generally, projects are initiated by governments at the state level |
| 8. | **Project Stages and Implementation for Solicited Proposals** | • Project Development Phase<br>• Expressions of Interest Phase<br>• Request for Proposal Phase<br>• Negotiation and Completion Phase<br>• Contract Management<br>See National Public Private Partnership Guidelines Overview, December 2008, p.20) |
| 9. | **Project Stages and Implementation for Unsolicited Proposals** | • Initial Submission and Strategic Assessment<br>• Detailed Proposal<br>• Negotiation of Final Binding Offer<br>See NSW Government, Unsolicited Proposals Guideline, August 2012, p.12 |
| 10. | **Mechanisms to Engage Private Sector at Project** | • Private Sector engagement will usually occur before the release of invitations for Expressions of Interest (EOI)<br>• Interface will assist government in ensuring a common understanding of project requirements<br>• Encouraging market interest and participation |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Development Stages** | • Private sector can assist in refining project specifics to ensure optimal outcome delivery<br>• Issues for discussion include<br>- Scope of the project<br>- Project timelines<br>- Project-specific issues and requirements<br>- Market interest and capability<br>See National Public Private Partnership Guidelines Volume 2 Practitioner's Guide, December 2008, p.10 |
| **11.** | **Project Appraisal and Selection Process** | • Projects selected from land use and sector specific planning processes<br>• PPP occurs as part of procurement options process on a value for money assessment process<br>See National Public Private Partnership Guidelines Volume 1 , December 2008 |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | • PPP Tender processes are largely privately funded by tender participants depending on project. Government may also compensate unsuccessful shortlisted tenders for bid costs. |
| **13.** | **Role of Local Government** | • Local Governments support PPPs initiated or procured at a higher level of government through planning and other regulatory approval processes<br>• Local Government has provided PPP funding support. For example, Gold Coast Rapid Transit and Sydney Light Rail. |
| **14.** | **Risk Sharing Policies/Practices** | • Risks should be allocated to the party best able to manage them (PPP Guidelines Overview, p.10) |
| **15.** | **Financing Mix Options Allowed** | • Not prescriptive on gearing ratios or form of finance in PPP Vehicles<br>• Well-developed and robust business case a necessity |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | • National PPP Pipeline<br>- A pipeline of current project across Australia in key social and economic infrastructure sectors |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | http://www.infrastructureaustralia.gov.au/public_private/<br>• National Infrastructure Construction Schedule<br>- The National Infrastructure Construction Schedule contains information on all infrastructure projects over $50 million procured by the general government sector. In line with the National Public Private Partnership Policy, a number of these projects are likely to use a Public Private Partnership delivery model.<br>https://www.nics.gov.au/ |
| **17.** | **Monitoring and Evaluation** | • Auditor General's reports and evaluation<br>• Each PPP unit regularly monitors progress and performance |
| **18.** | **Dispute Resolution Mechanism** | • Standard legal avenues |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | • Major Project facilitation legislation at State level has provisions for compulsory land acquisitions at fair market price |
| **20.** | **Foreign ownership shares** | • See *Australia's Foreign Investment Policy* (2013) – among the prescribed sensitive areas are telecommunications and transport |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | • Each State Government has a dedicated PPP area of expertise |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

PPP Projects in the Market as at February 2014

| PROJECTS | ESTIMATED TIMING |
|---|---|
| **New South Wales Government** | |
| North West Rail Link<br>Operations, Trains and System Project | Tenders close end 2013<br>Contract close due Q3 2014 |
| Northern Beaches Hospital | RFP issued January 2014<br>Preferred Bidder 2014<br>Construction start 2015 |
| Sydney Light Rail | Short list (3) February 2014<br>Contract close due late 2014 |
| **Queensland Government** | |
| Toowoomba Second Range Crossing | Registration of Interest closes 3 March 2014<br>RFEOI due March 2014<br>Preferred bidder due December 2014 |
| **Victorian Government** | |
| East West Link Stage 1 | RFEOI issued 18 July 2013<br>Shortlist (3) October 2013<br>RFP released 31 October 2013 |
| Ravenhall Prison | RFEOI issued 5 June 2013<br>Shortlist (2) October 2013<br>RFP issued 14 November 2014 |
| **Western Australian Government** | |
| Dampier Port Expansion | Registrations of Interest Called February 2014 |
| New Perth Stadium | RFEOI December 2012<br>Shortlist (3) April 2013<br>RFP issued July 2013<br>Tenders due December 2013<br>Contract close June 2014 |

**Source:http://www.infrastructureaustralia.gov.au/public_private/market.asp**

## 2. BRUNEI DARUSSALAM

**Legal and RegulatoryStructures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | Brunei Darussalam National Public Private Partnership Guidelines is the administrative guideline for PPP application and procedure.The National PPP Guidelines were approved in 2014 by the Executive Committee for National Development Plan. |
| **2.** | **Involved Government Agencies** | The Department of Economic Planning and Development (JPKE), and specifically the Department of Planning (DoP) under JPKE, acts as the central facilitator for PPP projects in Brunei Darussalam.<br>The main functions of the Department of Planning with respect to PPP are:<br>• Policy &Research<br>  • Provides framework for PPP initiatives such as policies, processes, procedures andguidelines;<br>  • Prepare strategic and action plans for PPP initiatives in the economy;<br>  • Provide, improve and update the guidelines for PPP from time to time; and<br>  • Conduct research and provide recommendations on the improvement of the PPP program.<br>• Coordination andMonitoring<br>  • Review and assess PPP proposals based on information provided and with the assistance of relevant government and privateagencies;<br>  • Evaluate, facilitate, coordinate, and monitor PPP projects;<br>  • Conduct negotiations on the terms of agreements for PPP contracts, as part of the Core ProjectTeam;<br>  • Manage the allocation of funds for PPP projects;and<br>  • Support and facilitate Ministries and Departments in developing and implementing PPP projects.<br>• Public Relations<br>  • Promote and advocate PPP as an alternative approach for infrastructure development;and<br>  • Establish strategic partnership with relevant stakeholders including investors, financiers, private companies and overseas agencies. |
| **3.** | **Supporting Agencies** | Agencies that also support the PPP process in providing relevant advisory services on legal, financial and technical aspects are, amongst others,the Attorney General's Chambers, Ministry of Finance and Ministry of Development, respectively. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | Available sectors for PPP will be determined by the PPP process and by the proposed project meeting relevant requirements. |
| **5.** | **Eligible Tender Participants/ Project Initiator** | The criteria for business entities from private sector to meet the requirement to join the PPP tender process, or initiate a PPP project are currently mentioned in the existing guidelines. It will be further enhanced overtime. |
| **6.** | **Types of PPP Structures/ Contract Types** | Brunei Darussalam is open to the different options or types of PPP structures/contract types, which will be dependent on the type of proposed PPP project. |
| **7.** | **Types of Project** | Projects are currently classified as Economic or Social project. The minimum value of an Economic PPP project is B$40 million and for a Social PPP project is B$10million. |

| | | |
|---|---|---|
| **8.** | **Project Stages and Implementation for Solicited Proposals** | There are 4 stages in the PPP project development process:<br>*1.* **Inception**<br>At the inception stage, JPKE will assess PPP project proposals based on two assessments, i.e. the Strategic Needs Assessment followed by an assessment against the PPP Suitability Criteria. Proposals which passed the two assessments will then be submitted to Jawatan kuasa Kerja Rancangan Kemajuan Negara Kesepuluh (Working Committee of 10th National Development Plan) for approval to proceed with the PPP modality.<br>*2.* **Feasibility**<br>At this stage, JPKE and the project sponsor represented by respective government agency will then conduct a full feasibility study of the PPP project which should include consideration of all factors associated with the projects, including risks, costing, output specifications, project structuring and Key Performance Indicators (KPIs). JPKE and the project sponsor will also prepare a Procurement Plan to outline the timeline, processes and strategies for procuring the project. In addition, marketing testing will be conducted both formally through Expression of Interest and informally through discussion with potential investors, to ensure the attractiveness of the project to the private sector. A projec twhich is feasible for PPP is then submitted to the Jawatan kuasa Kerja Rancangan Kemajuan Negara Kesepuluh (Working Committee of 10th National Development Plan) and Jawatan kuasa Tertinggi Rancangan Kemajuan Negara Kesepuluh (Executive Committee of 10th National Development Plan) for approval.<br>*3.* **Procurement**<br>At the procurement stage, the Request for Proposal (RFP) for undertaking the project will be advertised to the private sector.The submitted proposals will be evaluated by a Core Project Team. The recommendation of the Core Project Team on the selected company will be forwarded to the relevant authority for approval. Contract will then be signed with the winning company.<br>*4.* **Implementation**<br>The private company will be monitored to ensure the Key Performance Indicators are met throughout the contract period. |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | The project stages and implementation for unsolicited PPP proposals are currently not covered in the existing PPP guidelines. The existing guidelines are aimed towards executing the National Development Plans. Future expansion of the PPP guidelines may include this scope of PPP; subject to further analysis and deliberation. |

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| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | The private sector will be engaged through out the stages of project development, where relevant, through briefings, roadshows and discussions. |
| **11.** | **Project Appraisal and Selection Process** | A potential PPP project will undergo two forms ofassessment:<br>1. **Strategic Needs Assessment** –This assessment identifies the service gap to be addressed and the level of desired service, as well as possible options for addressing the service gap.<br>2. **PPP Suitability Criteria**– This assessment is to allow policy makers to decide whether a project would be suitable to be implemented via PPP |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | The facilities available to facilitate project structuring and transaction advisory are currently under analysis and development. |
| **13.** | **Role of Local Government** | The government structure in Brunei Darussalam is made-up of line Ministries with departments reporting to the relevant Ministries. |
| **14.** | **Risk Sharing Policies/ Practices** | Risk sharing policies and practices are as per the PPP guidelines. Specific policies will be established and incorporated when needed. |
| **15.** | **Financing Mix Options Allowed** | Financing alternatives available to realise and maintain PPP project are subject to the proposed PPP project submission. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Projects will be promoted and marketed to private sector through formally through the designated procurement process and informally through roadshows, discussions, seminars andworkshops. |
| **17.** | **Monitoring and Evaluation** | PPP projects will be monitored and evaluated by the Department of Economic Planning and Development (JPKE) as well as respective government agencies directly involved in the PPP project. |

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| **18.** | **Dispute Resolution Mechanism** | Dispute resolution mechanism for PPP projects is consistent with existing government policy and contractual PPP agreement. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Land acquisition and resettlement is subject to prevailing laws and regulations in the economy. |
| **20.** | **Foreign ownership shares** | Foreign ownership shares in PPP projects is subject to prevailing laws and regulations in the economy. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | PPP capacity building interventions/ programs for government agencies will be conducted from time to time, such as in the form of roadshows, seminars and workshops. |

**List of Ready-to-Offer Projects**

**22.**N/A.

## 3. CANADA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | Canada has a federal structure of government, which means that each order of government has control over its capital assets. As such, frameworks and practices can vary from one jurisdiction to the next.<br><br>At the federal level a number of laws and regulations apply to capital projects and undertakings, including PPPs (*Financial Administration Act*, Treasury Board Policies on asset planning, management of real property, project management, contracting, etc.). However, there is no specific legislative or regulatory framework that has been established for PPP procurement. Treasury Board policies require that federal departments assess the suitability to PPP procurement of their large capital projects (i.e. with more $100 million in capital costs); should there be the potential to procure an asset through a PPP and generate positive value for money, the responsible department must develop and assess a PPP option among other possible procurement options for the project.<br><br>At the provincial level, several jurisdictions have incorporated the principles of PPP procurement into the legislative or regulatory framework supporting their capital management processes, including British Columbia, Albert and Ontario. A small number of municipalities have also adopted PPP policies to guide their adoption of this procurement method (e.g. Ottawa, Calgary, Edmonton). |
| **2.** | **Involved Government Agencies** | There are a number of dedicated PPP units at the federal and provincial levels in Canada. Depending on their authorities and that of other organizations, their role ranges from raising awareness within the public sector to the costs and benefits of PPP procurement to screening capital plans for projects suitable to PPP procurement, to providing advisory services on specific projects, and to managing PPP projects and signing PPP agreements with PPP concessionaires.<br><br>PPP Canada Inc. – Dedicated PPP unit (Crown corporation) at the federal level (established in 2008)<br>Infrastructure Ontario – Crown corporation that includes a dedicated PPP unit in Canada's largest province (established in 2006)<br>Partnerships B.C. - Dedicated PPP unit (Crown corporation) in British Columbia (established in 2002)<br>Alberta Infrastructure – Dedicated PPP unit within the provincial ministry of Infrastructure in Alberta (established in 2010)<br>Partnerships New Brunswick – Centre of Excellence on PPPs within the provincial ministry of Transportation in New Brunswick (established in 2010)<br>SaskBuilds – Dedicated PPP unit (Crown corporation) in Saskatchewan (established in 2012)<br><br>In addition to these dedicated organizations, a number of government entities are directly involved in the procurement of capital assets, which include PPPs. These include:<br>Public Works and Government Services Canada<br>Defence Construction Canada |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | Provincial Ministries of Transportation<br>Provincial Ministries of Infrastructure<br>Provincial Ministries of Health<br>Provincial Ministries for Correctional Services<br>Regional Transportation Authorities (TransLink in British Columbia, Metrolinx in the Greater Toronto Area, the Agence Métropolitaine des Transports in the Greater Montréal Area)<br>Various municipalities |
| **3.** | **Supporting Agencies** | See above. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | There are a variety of sectors for which PPP procurement has been pursued in Canada, by all levels of government. These sectors include:<br>Transportation (e.g. roads, highways, public transit)<br>Water & Wastewater<br>Solid Waste Treatment<br>Justice and Corrections<br>Government accommodations and services<br>Health (e.g. hospitals)<br>Education (e.g. schools)<br>Recreation and Culture (e.g. recreational centres, concert halls, sports facilities) |
| **5.** | **Eligible Tender Participants / Project Initiator** | Requirement to join the PPP tender process:<br>Business entities are pre-qualified to join the Request for Proposals (RFP) phase though a Request for Qualifications (RFQ), where private sector entities are evaluated against a set of mandatory and rated criteria. The three (3) most highly ranked entities (consortia) are then identified to participate in the RFP phase of the project. In line with Canadian PPP best practices, project sponsors (governments) must adhere to all domestic and international trade obligations to promote an open, fair and transparent procurement process – a guiding principle in delivering value for money through a competitive process.<br><br>Requirements to initiate PPP project: |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | PPP projects in Canada may differ from those in other countries as the project sponsor is usually a municipal, provincial or federal government entity. Furthermore, the asset is usually owned by the project sponsor for the duration of the Project Agreement with no transfer of ownership. |
| **6.** | **Types of PPP Structures/ Contract Types** | The definition of PPP can vary slightly by various governments but the standard models used across Canada includes: Design-Build-Finance, Design-Build-Finance-Maintain, Design-Build-Operate-Maintain, Design-Build-Finance-Operate-Maintain; the type of contract is selected based on what is the optimal allocation of risk to generate the best value for money proposition. |
| **7.** | **Types of Project** | In Canada, PPPs are used for public infrastructure. A public sector entity must identify the need for a given public infrastructure asset and determine through careful analysis and planning that a PPP model would be the best approach to deliver it. The private sector provider is then chosen by the public sector sponsor following an open and competitive selection process. |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | 1. Project Definition: The public sector sponsor identifies the need for a given public infrastructure asset. This is done through a preliminary needs assessment, and a preliminary business case that highlights the high-level merits and funding requirements of the project.<br>2. Pre-procurement: The public sector sponsor then identifies and assesses various procurement options (including traditional and PPP delivery models), conducts market soundings with the private sector to determine overall market capacity and interest, develops a detailed business case and seeks formal authorities to proceed as a PPP where both qualitative and quantitative analyses identifies merit in proceeding as a P3. At this phase, sponsors may retain external PPP expertise and engage a fairness advisor to oversee the entire procurement process to ensure an open, fair and transparent process.<br>3. Procurement (RFQ): The public sector sponsor issues a Request for Qualifications (RFQ)to select the three most qualified private sector consortia that will be invited to submit detailed project proposals through a Request for Proposals (RFP) process.<br>4. Procurement (RFP): The RFP process is a lengthy phase of the procurement that allows proponents to review all technical requirements, output specifications, and draft Project Agreements, and submit a detailed costed proposal. The public sector sponsor then undertakes a rigorous technical and financial evaluation process to identify a preferred proponent. The PPP project agreement is signed between the public and private sectors (commercial close) and comes into full effect once the financing is in place and fully secured (financial close).<br>5. Project Implementation: the private sector consortium (typically comprised of a design-builder, operations and maintainer, and financier) completes the design of the project and begins construction of the project. Payments are made to the private sector during the construction phase, generally through a substantial completion payment once the asset is deemed completed and available, which represents a partial payment for the project and ensures sufficient capital (both debt and equity) is at risk for the |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | private sector to remain incentivized in the performance of its obligations defined within the project agreement. Operational Phase: The private sector consortium operates and maintains the project in a manner that meets pre-determined specifications set out in the Project Agreement. Annual service payments are paid to the private sector throughout the concession period (typically 25-30 years), and are subject to financial deductions in the event that the private sector fails to meets the performance requirements of the project during the operation phase.<br>6. Handback: Following the end of the concession period, the responsibility for the operations and maintenance is prepared to be handed back to the sponsor. Provisions within the project agreement ensure the project reverts back to the sponsor in a suitable condition and is enforced through the use of financial holdbacks at the tail end of the concession period. |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | See #7 |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | Typically, market soundings will be used as part of the procurement options analysis to assess whether there is enough capacity and interest in the market for a proposed project, and therefore support a competitive PPP procurement process. Changes to the scope of the project or its structure can be considered in light of that market feedback. If there is not sufficient capacity or interest in the market for a given project, this undermines the value of pursuing the project as a PPP and must be taken into consideration prior to deciding on the procurement approach.<br><br>A Request for Expression of Interest can also be issued to more formally engage the private sector prior to launching the procurement process. |
| **11.** | **Project Appraisal and Selection Process** | Projects are generally screened against a standard set of criteria to determine if the project has the potential to be a viable P3 project. Criteria include project size, complexity, potential for contract integration, or the availability/accessibility of output and performance specifications for the construction and the operations and maintenance of the asset.<br><br>Projects that screen positive for PPP viability move to the development of a PPP Business Case or Procurement Options Analysis. A Procurement Options Analysis evaluates a range of infrastructure asset delivery models against qualitative and quantitative criteria and recommends an optimal model on the basis of Value for Money for the public sector. It also presents the Procuring Authority's |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | procurement plan, which identifies the roles and responsibilities of the various project stakeholders, procurement activities, key milestones and timelines. This upfront planning will help<br>inform the decision-making process and will ensure successful procurement, effective project delivery and sustainability of the infrastructure throughout its operational period. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | PPP Canada is the Government of Canada's source of PPP expertise as it relates to federal public-private partnership initiatives and can help facilitate the structuring of transactions. PPP Canada supports the implementation of the federal screen for all projects over $100M, and advises on the procurement options analysis and value for money analysis on federal projects. PPP Canada can also leverage a number of external advisory firms, such as cost consultants, financial advisors, and legal advisors through a standing offer of qualified firms that have significant P3 expertise.<br><br>Outside of the federal context, Canada is home to a number of provinces that have established PPP programs. As a result, many of the larger domestic consulting firms possess a great deal of PPP related expertise that is available to project sponsors contemplating PPP project delivery. |
| **13.** | **Role of Local Government** | In cases where the local government is the public sector sponsor of the PPP project, the same role that the federal government would play in the approval and management of a federal PPP project would be played by the local government.<br><br>In cases where the local government is not the sponsor of the PPP project, various permits and licenses may have to be granted related to local matters (construction permits, land use, traffic disruption during construction, etc.) |
| **14.** | **Risk Sharing Policies/Practices** | Risk sharing methodologies vary from jurisdiction to jurisdiction. The general principle is that the party best placed to mitigate its impact should bear the risk. In other words, the objective of a PPP should not be to transfer risks to the private sector at any cost, as this would by definition undermine the value proposition of the PPP approach.<br><br>Risk quantification is a critical component of a value for money analysis, and is often accomplished through risk workshops, whereby cross-disciplinary teams meet and discuss the impact and probability of all project related risks with an attempt to quantify these values for the public sector sponsor and private sector in scenarios for both traditional project delivery and PPP project delivery. The outcome of these risk workshops allow for probabilities and values to be generated, which are then modeled using Monte Carlo methods in order |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | to ascertain an overall risk distribution for all project related risks. The value of retained risks for the public sector sponsor are then used as an input to the financial model in determining the overall value for money of PPP project delivery.<br><br>Mechanisms are put in place to ensure effective risk transfer, including having private financing at risk for the duration of the project and monitoring of performance against output specifications. |
| **15.** | **Financing Mix Options Allowed** | While variations exist primarily on the basis of project size, most financing solutions for PPP projects in Canada include 80-90% of debt (a combination of shorter term construction financing and longer term debt raised through the bond market or through bank debt) and 10-20% equity provided by the consortium participants in the joint venture underpinning the special purpose vehicle (the legal entity that constitutes the private partner in the PPP). This structure has the benefit of ensuring lender third party due diligence while also forcing private sector participants to be exposed to an equity position in the project.<br><br>Payments are made to the private sector partner on demonstrated performance (i.e., meeting project output specifications) through a substantial completion payment (where the asset is deemed available for user) and annual availability payments from the public sector. Considerations are given to ensure that sufficient capital is at risk for the private sector consortia to incentivize their involvement in the project and anchor the risk transfer. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Market Soundings, Requests for Expression of Interest and a Request for Qualifications are some approaches used to solicit and assess private sector interest in a PPP project prior to the RFP phase of procurement. Other forms of industry engagement, such as project champions addressing industry conferences and “industry days” to support private sector partnering initiatives can also be used to increase market awareness and interest in a given project.<br><br>It should be noted that most project-related documentation in these early phases of project definition are also usually posted on national tendering websites that allow for maximum visibility and domestic coverage of the opportunity. A number of leading publications (such as Inspiratia) also closely monitor the project development pipeline for domestic projects in the Canadian market and assist indirectly with facilitating market awareness of PPP projects. |
| **17.** | **Monitoring and Evaluation** | PPP projects are often cited for their ability to deliver on time and on budget, as any performance related delays are borne by the private sector partner at a high financial cost. Delays in achieving substantial completion, and failures to meet performance specifications results in financial penalties for the private sector partner which impact the risk to the lender and the private sector’s |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | equity return. As such, a significant component of monitoring and evaluation is done by third party due diligence and oversight by financiers given the capital at risk.<br>From the public sector perspective, PPP contract management is required to ensure that the private sector is meeting its obligations in the project agreement and that appropriate contract enforcement is being leveraged where required. Audit and verification mechanisms are also part of public sector oversight mechanism, and the Office of the Auditor General, at the federal and provincial levels, can undertake audits of PPP projects to validate that the outcomes of the project reflect value for money assumptions. |
| **18.** | **Dispute Resolution Mechanism** | PPP project agreements in Canada contain detailed clauses to allow the public or private partner to bring disputes to a timely and orderly resolution via amicable resolution, escalating to mediation and arbitration where required, while minimizing delays on the project. While risk allocations are usually clearly defined in project agreements, litigation is also a recourse, although is not usually in the interest of either party given the broader implications of project related delays and potential increased financial costs for both parties<br><br>Special project related considerations have also been implemented to fast track arbitration on more significant issues where schedules are considered critical. Project sponsors should be cognizant of the fact that conflicts will arise through the life of a PPP agreement and ensure that a streamline process exists to facilitate quick resolution of issues before they become larger and more significant issues that have a material impact on schedule and project costs. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | In Canada, land acquisition and assembly (including expropriation) is typically the purview of the public sector and is usually a pre-requisite required prior to entering a project agreement with a private sector entity. |
| **20.** | **Foreign ownership shares** | While ownership of the asset is always retained by the public sector sponsor, there are usually no general limitations on the foreign ownership of PPP project-related financial securities in Canada. There may, however, be limitations for nationally sensitive projects where security holders of project are to limited to domestic institutions for national security reasons. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | The P3 Canada Fund is a dedicated federal infrastructure program aimed at providing financial support towards public infrastructure projects delivered under PPP procurement models. Its main objective is to support innovative PPP projects that deliver value for money for all Canadians and develop the Canadian PPP market, with a focus on jurisdictions inexperienced with PPP procurement. The strategic use of the P3 Canada Fund, along with other initiatives and efforts led by PPP Canada such as the development of |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | standardized procurement tools and guides, contribute to building capacity across the public sector at all levels of government in Canada.<br><br>Other dedicated provincial PPP Unit work on capacity building and the sharing of best practices in order to foster capacity building. |

**22. List of Ready-to-Offer Projects**

Projects that are in pre-procurement or in RFQ stage by the federal, provincial, territorial, or municipal governments include:

- The Capital Regional District of Victoria's biosolids energy centre;
- Mackenzie Vaughan Hospital;
- The New Bridge over the St. Lawrence River;
- York Viva Bus Rapid Transit;
- Energy Services Acquisition Program;
- Hamilton biosolids project; and
- Edmonton Light Rail Transit.

## 4. CHILE

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | - Public Works Concessions Law (Supreme Decree Mop N°900, 1996)<br>- Procedures and Regulation of Public Works Concessions (Supreme Decree Mop No 956, 1997)<br>- Law No 20.410 (Modifications to the Concession Law, 2010)<br>- Decree Mop 215, 2010 Modifications of Procedures and Regulations under Decree No 956) |
| 2. | **Involved Government Agencies** | Ministry of Public Works (Mop)<br>Ministry of Finance<br>Ministry for Social Development (Exmideplan)<br>Other sectoral ministries directed involved in a specific concession process |
| 3. | **Supporting Agencies** | - |
| 4. | **Available Sectors** | - Highways - Water Waste Management - Hospitals - Civic Centers<br>- Public Parks - Prisons - Ports<br>- Airports - Public Buildings - Transport Intermodal Stations<br>- Bridges - Irrigation Infrastructure - Railways |
| 5. | **Eligible Tender Participants / Project Initiator** | - Chilean legal firm<br>- Foreign legal entity (which is required to establish a chilean legal entity once appointed a winner). |
| 6. | **Types of Project** | Public initiative projects |
| | | Private initiative projects (individual or legal entities national or foreigner) |
| 7. | **PPP Project Stages and Implementation** | Private initiatives:<br>A) Presentation of a project (kind of project, estimated demand, expropiations, works needed, services provided, investment required, financial analysis, initiative-related risks, payments to the state or subsidies required, general environmental analysis, schedule)<br>B) Mop reception<br>C) Declaration of public interest<br>D) Additional studies<br>E) Acceptance of the project to go bid stage.the private initiative presented receives a bonus from 3 to 8 % in bid evaluation<br>F) Bidder pre-evaluation process<br>G) Call for a bid |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | H) Opening an d evaluation of the bid (technical and economic)<br>I) Award decree and contract<br>J) Registration and protocolization<br>K) Expropiations<br>L) Construction and payments<br>M) Exploitation<br><br>Public initiative project:<br>A) Bidder pre-evaluation process<br>B) Call for a bid<br>C) Opening and evaluation of the bid (technical and economic)<br>D) Award decree and contract<br>E) Registration and protocolization<br>F) Expropiations<br>G) Construction and payments<br>H) Exploitation |
| **9.** | **Government Support** | A) Guaranteed mínimum income and income-sharing<br>B) Coverage against exchange-rate risk (us$, euro)<br>C) Income distribution mechanism that provides concessiones firms with a stable income horizon in exchange for carrying out additional work on behalf of the state<br>D) Present value of income mechanism that uses a flexible concession period to guarantee a known level of income<br>E) Special public works collateral to allow use of the rights granted by the state in raising finance<br>F) Infrastructure bonds to facilitate the participation of private agents in long-term financing<br>G) Reimbursement of part of the cost of the studies presented as private initiative<br>H) Land acquisition |
| **10.** | **Government Guarantee** | A) Guaranteed mínimum income and income-sharing<br>B) Coverage against exchange-rate risk (us$, euro)<br>C) Income distribution mechanism that provides concessiones firms with a stable income horizon in exchange for carrying out additional work on behalf of the state |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | D) Present value of income mechanism that uses a flexible concession period to guarantee a known level of income<br>E) Special public works collateral to allow use of the rights granted by the state in raising finance f) infrastructure bonds to facilitate the participation of private agents in long-term financing |
| **11.** | **Land Acquisition** | A) Purchase and expropiation of land can be undertaken by the minister of public works before procurement documents are submitted<br>B) The concession holder may acquire for the government the land necessary to carry out the works in accordance with the plans established in the approved projects<br>C) Procedures for purchasing the property normally are in the bidding conditions - see mop supreme decree no 900, 1996 |
| **12.** | **Foreign ownership shares** | - Not limitation and not discrimination of foreign capital<br>- See foreing investment statute or decree law no 600 from 1974 and its modifications |
| **13.** | **Project lists** | **Highway projects (us$ million**)<br>Route g21, access to ski centers in the metropolitican region 81<br>Américo vespucio east highway 2,000<br>Costanera central highway 1.970<br>Santiago lampa highway 184<br>Highway connection between routes 68 and 78 51<br>Nahuelbuta highway 247<br>Industrial bridge over bio bio river 209<br>San fernando – santa cruz road 147<br><br>Airports<br>718 |

| NO | ASPECTS | DESCRIPTION | | | |
|---|---|---|---|---|---|
| | | Retendering of amb airport | 14 | 697 | 4 |
| | | Retendering of el tepual airport, puerto montt | | | |
| | | Public buildings and others | 1,904 | | |
| | | 11 hospitals | 53 | | 1.9 |
| | | Los libertadores pass public infrastructure project | 158 | | |
| | | Urban development of the marga marga estuary | 544 | | |
| | | Punilla reservoir | | | |
| | | | | | 1 |
| | | | | Subtotal | 2.1 |
| **13.** | **Project lists** | **Highway projects (us$ million**) | | | |
| | | Route g21, access to ski centers in the metropolitican region | 81 | | |
| | | Américo vespucio east highway | 2,000 | | |
| | | Costanera central highway | 1.970 | | |
| | | Santiago lampa highway | 184 | | |
| | | Highway connection between routes 68 and 78 | 51 | | |
| | | Nahuelbuta highway | 247 | | |
| | | Industrial bridge over bio bio river | 209 | | |
| | | San fernando – santa cruz road | 147 | | |

| NO | ASPECTS | DESCRIPTION | | | |
|---|---|---|---|---|---|
| | | Airports | | | |
| | | Retendering of amb airport | 718 | 697 | 4 |
| | | Retendering of el tepual airport, puerto montt | 14 | | |
| | | Public buildings and others | | | |
| | | 11 hospitals | 1,904 | | 1.9 |
| | | Los libertadores pass public infrastructure project | 53 | | |
| | | Urban development of the marga marga estuary | 158 | | |
| | | Punilla reservoir | 544 | | |
| | | | | | 1 |
| | | | | Subtotal | 2.1 |

## 5. PEOPLE'S REPUBLIC OF CHINA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | China has been working on PPP related laws and franchising regulations, constructing PPP legal system consisting of laws and regulations, policy guidlines and detailed implementing rules.<br><br>- In the aspect of laws and regulations, China has amended the *Budget Law* and established *Govenment Procurement Law Implementing Regulations*.<br>- In the aspect of policy guidlines, the Opinions of State Council on Strengthening Local Government Debts Management (SC 2014 No. 43), Decision of State Council on Deepening Reform of Budgetary Management System (SC 2014 No. 45), Guiding Opinions of State Council on Innovating Investment and Financing Mechanism in Priority Areas and Encouraging Private Investment (SC 2014 No. 60), Circular of the Ministry of Finance on Issues Related to Expanding the Use of PPP Modality (MOF 2014 No. 60), and Circular of the Ministry of Finance on Issuing "The Cleaning Up and Screening Method of Incorporating Local Government's Debt Stock into Budgetary Management" (MOF 2014 No. 351) are all in place.<br>- In the aspect of detailed implementing rules, the *PPP Implementation Guidebook*, *PPP Project Contract Guidebook*, *Interim Provisions on Government Procurement Competitive Negotiation Management*, and *Measures for Administration of PPP Project in Government Procurement* are available. The *Fiscal Capacity Appraisal Guidelines* and *Cost-Effective Evaluation Guidelines* are being developed.<br><br>In the aspect of law application,<br><br>- The private sector contractor in a PPP project should be chosen in accordance with the current *Government Procurement Law*;<br>- Government's payment obligation in a PPP project is incorporated into cross-year budget management and government comprehensive financial report in accordance with China's *Budget Law*;<br>- Rights and obligations of both public and private contracting parties in PPP projects could seek adjustment and protection according to China's *Contract Law*;<br>- Land acquisition method and procedure in PPP projects are stipulated by the *Land Administration Law* and related regulations.<br>- Laws and regulations on project planning, approval, feasibility study, environmental impact assessment and design are in place to provide prophase planning and approval of a project with legal basis.<br>- Relevant environmental, safety and industry suvillance laws and regulations, such as China's existing *Environmental Protection Law*, *Safety Production Law*, are also in place to supervise PPP projects. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | |
| **2.** | **Involved Government Agencies** | - Ministry of Finance of PRC leads the effort to organize and coordinate PPP work, and is responsible for developing PPP related policies and carrying out planning and administration on PPP with other departments as National Development and Reform Commission, Ministry of Housing and Urban-Rural Development, Ministry of Environmental Protection, People's Bank of China and China Banking Regulatory Commission, etc. Financial departments at all levels are responsible for PPP project collecting and screening, budget management, fiscal capacity appraisal, cost- effective evaluation, government debt management and procurement management.<br>- China's National Development and Reform Commission participates in PPP policy-making, planning and administration; its subordinate departments at different levels are responsible for PPP project approval and feasibility study ratification.<br>- Relevant administrative departments: Ministry of Housing and Urban-Rural Development, Ministry of Environmental Protection, Ministry of Agriculture and Ministry of Transport are involved in their respective industry policy-making, and their subordinate departments at all levels are in charge of project launch, implementation and supervision.<br>- Relevant regulatory departments including administration departments for Industry and Commerce, Work Safety and Environmental Protection are responsible for PPP project administrative supervision.<br>- Currently, China has established a national-level PPP Center in Ministry of Finance to carry forward PPP related policy research, consultation and training, statistics and international communication, etc.<br>- Governments at or above the county level would take in charge of PPP project approval and implementation at their respective level. |
| **3.** | **Supporting Agencies** | - Governments at or above the county level could set up a special coordination mechanism to undertake project evaluation, coordination and supervision, etc.<br>- Finance departments (PPP Centers where applicable) at different levels of government are in charge of project collecting and screening.<br>- Government or designated functional departments and organizations could serve as project implementing body to be responsible for project preparation, procurement, supervision and handover. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | It tend to infrastructure and public service sectors that relatively have more flexible price adjustment mechanism, higher maketization degree, larger scale investment and more stable demand in the long run, including but not limted to, urban water supply, heating, gas, sewage and garbage disposal, government-subsidized housing, underground utility tunnel, rail transit and health and pension service facilities, etc. |
| **5.** | **Eligible Tender Participants / Project Initiator** | The entry criteria for private business entities will be decided on specific project demands and announced in pre-qualification notice. |
| **6.** | **Types of PPP Structures/ Contract Types** | Types of PPP structures include but not limited to O&M, MC, BOT, TOT, LOT, ROT, BOO, BBO, and Regional Concession, etc.<br><br>Private sectors are permitted to set up SPV, in which government is allowed to buy share but cannot perform as controlling shareholder. |
| **7.** | **Types of Project** | According to project cooperative type, PPP projects can be classified into government purchase of services, franchising and equity cooperation.<br><br>According to initiating parties, projects can be classified into government-initiated projects and private-sector-initiated ones.<br><br>According to payment mechanism, projects can be devided into government payment, user charge and viability funding gap. |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | China's Finance departments (PPP Centers where applicable) at different levels of government collect potential projects from relevant administrative departments, and the latter could select potential projects from new or rebuilding projects in sectors related to national economic and social development planning and special planning of industries, or those from stock public assets. |
| **9.** | **Project Stages and Implementation** | Government at or above the provincial level would announce project cooperative information periodically on designated media. Private sectors could submit proposals to promote potential projects to China's Finance departments (PPP Centers where applicable) at different levels of government. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **for Unsolicited Proposals** | |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | Competitive negotiation government procurement mechanism is applied. |
| **11.** | **Project Appraisal and Selection Process** | 1) China's Finance departments (PPP Centers where applicable) at different levels of government confers with relevant administrative departments to appraise potential PPP projects and determine feasible ones;<br>2) Finance departments confer with relevant administrative departments to carry on cost-effective evaluation;<br>3) Finance departments (PPP Centers where applicable) conducts fiscal capacity appraisal;<br>4) Once selected as a PPP project, it could step into project preparation and procurement stage. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | China's State Council and governments at all levels have circulated a series of policy documents to promote wide use of PPP. Ministry of Finance has introduced the *PPP Implementation Guidebook* and *PPP Project Contract Guidebook*, and has proclaimed special financial subsidy policies targeting sponge cities and underground utility tunnel projects. Currently Ministry of Finance is engaged in developing guidelines on financial support to PPP project.<br><br>Central and local finance departments are considering setting up PPP Fund and Substituting-Subsidies-with-Rewards Special Fund which will provide support to PPP projects. |
| **13.** | **Role of Local Government** | Governments at or above county level is responsible for PPP project approval, implementation and management in their own jurisdictions. Involved government payment obligations in PPP projects are included into the budget of the respective local government. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **14.** | **Risk Sharing Policies/ Practices** | Governments bear policy risk, legal risk and lowest demand risk. Private entities bear project design, implementation, operation and maintenance, and financial risks. Both parties share force majeure risks. |
| **15.** | **Financing Mix Options Allowed** | Under the premise of government's permission, PPP projects can be financed based on project assets or profits. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | China is speeding up legislation process to create an enabling legal environment, strengthening policy support to provide stable policy expectations, developing regulations including PPP project cost-effective evaluation, PPP project fiscal capacity appraisal and PPP project budget expenditure management, and bringing government's payment obligation into budgetary management to ensure government's performance capacities.<br><br>China has also been proactively promoting financial innovation to improve investment climate by means of developing long-term loan products, setting up governmental guiding fund and industrial investment fund. |
| **17.** | **Monitoring and Evaluation** | China has constructed a comprehensive regulatory framework consisting of contract management, administrative supervision and public scrutiny:<br><br>- Through setting reasonable performance guarantee mechanism, payment mechanism, violation responsibility and early termination mechanism in project contracts, it would strengthen legal restraint to and supervision on private sector in implementing a contract, thus making PPP projects fruitful.<br>- Governments fulfill administrative supervision duties according to laws, and enhance administrative supervision in the aspects of work safety, sanitation and environmental protection during project construction and operation.<br>- Through establishing information publicity and periodical release mechanism, it would ensure the public's right to know, enhancing public scrutiny to PPP projects. |
| **18.** | **Dispute Resolution Mechanism** | As for project contract disputes, which belong to civil relationship between equal, one could settle the dispute by civil action or civil arbitration.<br><br>As for project approval and administrative regulation disputes, which belong to administrative legal relationship, one could settle the dispute by administrative reviews or administrative litigation. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Considering the state ownership and collctive ownership of land in China, PPP projects would acquisit land by three means:<br>- To access state-owned land use right by free allocation or compensated transfer;<br>- To access collectively-owned land use right by leasing.<br>Related land acquisiton, land levelling and demolition resettlement, in accordance with the agreement by the two parties, could be taken on by government or private sectors. |
| **20.** | **Foreign ownership shares** | Except sectors related to national securities, foreign enterprises and sino-foreign joint ventures could participate in PPP projects. And in principle, no share limits, while shall be in line with China's Government Procurement Law. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | - In the aspect of institutional improvement, Ministry of Finance is taking the lead to develop operation specifications for PPP including PPP project budget expenditure management, PPP project cost-effective evaluation and PPP project fiscal capacity appraisal, and is establishing evaluation index on project selection and risk management, in order to enhance comprehensive regulatory guidance on PPP projects.<br>- In the aspect of project demonstration, Ministry of Finance is promoting PPP pilot projects, based on whose standard operation and experience, related benchmark and references will be formed.<br>- In the aspect of promotion and training, Ministry of Finance is engaged in launching training work in PPP policy interpretation, project management and risk control, and enhancing government capacity building.<br>- In the aspect of international cooperation, Ministry of Finance carries out wide cooperation with multilateral institutions such as World Bank, Asian Development Bank, and with competent government PPP agencies in Canada, Korea and Australia, so as to borrow international experiences. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

| No. | Project | Province | Type | Sector |
|---|---|---|---|---|
| **1** | Public Charging Infrastructure Network for New Energy Automobile project | Tianjin | New item | New energy automobile |
| **2** | Central heating project in Qiaoxi district of Zhang Jiakou city | Hebei | Stock item | Heating |
| **3** | Utility tunnel project in Zhengding new district of Shijiazhuang city | Hebei | Stock item | Underground utility tunnel |
| **4** | Waste water disposal plant in Sanbao village in Fushun city | Liaoning | Stock item | Waste water disposal |
| **5** | The sixth water supply plant construction project (phase one) in Jilin city | Jilin | Stock item | Water supply |
| **6** | Heat Source transformation of Guodian Jilin thermal power plant | Jilin | Stock item | Heating |
| **7** | Jiading Nanxiang Waste water disposal plant (phase one) | Shanghai | New item | Waste water disposal |
| **8** | Modern tram project in Kunshan city | Jiangsu | New item | Rail transit |
| **9** | Water source region and raw water pipeline project of Luoma lake in Xuzhou city | Jiangsu | Stock item | Water supply |
| **10** | East city waste water disposal plant and Xianlin waste water disposal plant in Nanjing city | Jiangsu | Stock item | Waste water disposal |
| **11** | Waste water disposal of eco-chemical science and technology industrial park in Suqian city | Jiangsu | Stock item | Waste water disposal |
| **12** | Transformation of waste water disposal project of phase 1 and phase 2, and expansion project of phase 3 in Rugao city | Jiangsu | Stock item | Waste water disposal |
| **13** | Refuse disposal facility of Nanjing city | Jiangsu | Stock item | Refuse disposal |
| **14** | Xuzhou rail transit line 1 (phase one)project | Jiangsu | Stock item | Rail transit |
| **15** | Suzhou rail transit line 1 project | Jiangsu | Stock item | Rail transit |
| **16** | Rudong county Hospital for TCM relocation project | Jiangsu | Stock item | Health care |

| | | | | |
|---|---|---|---|---|
| **17** | Hangzhou underground line 5 phase one project and line 6 phase one project | Zhejiang | Stock item | Rail transit |
| **18** | Hangzhou-Haining light railway project | Zhejiang | Stock item | Rail transit |
| **19** | Waste water disposal and municipal drainage purchasing service in Chizhou city | Anhui | New item | Waste water disposal |
| **20** | East Ma Anshan city waste water disposal plant | Anhui | Stock item | Waste water disposal |
| **21** | City waste water disposal project in Anqing city | Anhui | Stock item | Waste water disposal |
| **22** | Hefei rail transit line 2 | Anhui | Stock item | Rail transit |
| **23** | Water diversion project (second water source ) of Haidao county in Dongshan | Fujian | Stock item | Water supply |
| **24** | Tuolin Lake ecological and environmental protection project of Jiujiang city | Jiangxi | New item | Comprehensive environmental protection |
| **25** | Jiaozhou Bay submarine tunnel phase one project | Shandong | Stock item | Transportation |
| **26** | Qingdao sports centre project | Shandong | Stock item | Sports |
| **27** | Waste water disposal of Xiangtan economic and technological development zone-phase one | Hunan | New item | Waste water disposal |
| **28** | Chongqing rail transit line3 (including phase 1 project, phase 2 project and south extension project) | Chongqing | Stock item | Rail transit |
| **29** | River water comprehensive environmental improvement in Nanming –phase 2 project | Guizhou | New item | Comprehensive environmental improvement |
| **30** | Main urban area's central heating project in Weinan city | Shanxi | New item | Heating |

**The above 30 projects are the first batch of pilot projects identified by the Ministry of Finance of China, with a total investment value of 178.6 billion CNY (nearly 30 billion USD); while there are also a number of projects released by local governments mainly in the provinces of Jiangsu, Fujian, Sichuan, Hunan, Henan, etc., whose total value exceeds 1 trillion CNY (around 160 billion USD).**

## 6. HONG KONG, CHINA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | There is no law or regulatory framework mandating the use of PPP in Hong Kong, China. PPP is seen as another form of procurement approach and government bureaux/departments have the discretion to use PPP based on the merits of their projects. |
| 2. | **Involved Government Agencies** | Agencies embarking on the PPP project would be involved directly. |
| 3. | **Supporting Agencies** | The Efficiency Unit under Chief Secretary for Administration's Office assists government bureaux and departments to enhance the delivery of public services using the PPP approach through provision of consultancy services and best practice guidelines. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 4. | **Available Sectors** | All sectors can be considered so long as there are clear benefits in tapping private sector expertise in delivering public service and that the government remains accountable for such delivery. |
| 5. | **Eligible Tender Participants / Project Initiator** | Eligibility criteria are based on specific project needs and are typically tied to the performance of the PPP projects. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **6.** | **Types of PPP Structures/ Contract Types** | Different structure can be adopted based on the nature of the PPP project, but commonly BOT given past projects. |
| **7.** | **Types of Project** | No specific classification of project types. |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | - Invitation for Expressions of Interest<br>- Prequalification of Bidders<br>- Request for Proposal from selected bidders (Invitation to Tender)<br>- Public Consultation Period<br>- Issue of Final Tender<br>- Closing of Tender<br>- Awarding of Contract |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | Handled on an exceptional basis. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | - Bureau/Department to conduct a pre-procurement briefing before PPP tender<br>- Market sounding sessions to provide potential providers ahead of the procurement<br>- A selective tendering process (pre-qualification) can be used to identify the right PPP provider |
| **11.** | **Project Appraisal and Selection Process** | Evaluation of tender proposals to be conducted using the evaluation model or criteria set forth in the Invitation to Tender. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Project management expertise and support can also be obtained from other government agencies which have embarked on similar PPP projects previously. |
| **13.** | **Role of Local Government** | Not applicable |
| **14.** | **Risk Sharing Policies/ Practices** | - Risks should be allocated to the party who is best equipped to manage and mitigate them.<br>- There should be optimal, not maximum, risk transfer to the PPP provider.<br>- The risk allocation must be clearly translated to the PPP contract through the contract terms or the payment mechanism, to effectively realise the benefits of optimal risk management. |
| **15.** | **Financing Mix Options Allowed** | Based on project's needs and overall best value proposal, where applicable. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Pre-procurement briefing or market sounding session will be conducted to attract the attention or interest of private sector. |
| **17.** | **Monitoring and Evaluation** | This is conducted at bureau/department level. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **18.** | **Dispute Resolution Mechanism** | This should be specified in the PPP contract. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Based on project's needs and overall best value proposal, where applicable. |
| **20.** | **Foreign ownership shares** | No general limitation on the foreign ownership of PPP project-related investment |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | Please refer to item 3 above. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation*

## 7. INDONESIA

| NO | ASPECTS | INDONESIA |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | − Law No. 2/2012 on Land Procurement for Development in Public Purpose<br>− Presidential Decree No.71 of 2012 jo Presidential Decree No. 40 of 2014 on Land Procurement Implementation for Public Purpose<br>− Presidential Decree No. 42 of 2005 jo Presidential Decree No. 12 of 2011 on National Committee on the Acceleration of Infrastructure Development (KKPPI)<br>− Presidential Decree No. 67 of 2005 jo Presidential Decree No. 13 of 2010 jo Presidential Decree No. 56 of 2011 jo Presidential Decree No. 66 of 2013 on Public Private Partnership in Infrastructure Provision.<br>− Presidential Decree No. 78 of 2010 on Presidential Decree for Guarantee Application<br>− Minister of Finance Decree No. 260 of 2010 on Standard Procedure of Risk Management of Infrastructure Provision by Private Sector<br>− Ministry Of Finance Decree No. 223 of 2012 on Feasibility Support Toward Part Of Construction Cost In Cooperation Between The Government And The Business Entities In The Provision Of Infrastructure<br>− Bappenas Minister Decree No. 3 of 2012 on General Guidelines of PPP in Infrastructure Provision<br>− Bappenas Minister Decree No. 6 of 2012 on Procedure in Listing Infrastructure Projects Plan<br>− Sectoral laws and regulations related to infrastructure projects |
| 2. | **Involved Government Agencies** | − Coordinating Ministry of Economic Affairs (Chairman of National Committee of Policy for Infrastructure Acceleration/KKPPI)<br>− Ministry of National Development Planning/National Development Planning Board (BAPPENAS)<br>− Ministry of Finance<br>− Indonesia Investment Coordinating Board (BKPM)<br>− Other Ministries/Local Government (Government Contracting Agency / GCA) |
| 3. | **Supporting Agencies** | Main institutional and financing elements of PPP include:<br>− KKPPI to assist with high level coordination of PPP issues and/or policies.<br>− PPRF in Ministry of Finance as the risk management unit (RMU), to manage government supports associated with PPP projects.<br>− PT. SMI[1] and PT. IIF[2] to support PPP projects' preparation in order to increase their bankability. |

[1] PT. Sarana Multi Infrastruktur (PT. SMI), a non-banking state-owned company dedicated specifically to infrastructure financing

[2] PT. Indonesia Infrastructure Financing Facility. A privately owned subsidiary of PT. SMI, established in January 2010. PT. IIF will provide local currency project financing in the form of loans, equity, and nonpolitical risk guarantees. PT. IIF has start-up capital from the International Finance Corporation (IFC), ADB, DEG and the World Bank.

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | − IIGF[3] to support the provision of guarantees for PPP projects.<br>− PDF to fund project preparation.<br>− Public Private Participation Central Unit (P3CU) to support selection of well-developed PPP projects.<br>− MOU between the Ministry of Finance, BAPPENAS and the Indonesia Investment Coordinating Board (BKPM) to define their roles and responsibilities and accelerate the PPP process. |
| **4.** | **Available Sectors** | − Transportation infratructure, which includes airport services, provision and/or service of ports, railways infrastructures;<br>− Road infrastructure, which includes toll roads and bridges;<br>− Irrigation infrastructure, which includes channel of raw water distibutor;<br>− Water supply infrastructure, which includes raw water intake building, transmission network, distribution network, water supply management installation;<br>− Waste water infrastructure, which includes waste water management installation, collecting and main network, and waste infrastructure which includes waste collectors and disposal sites;<br>− Telecommunication and informatics infrastructure, which includes telecommunication network and e-government infrastructure;<br>− Electricity infrastructure, which includes power plants, including geothermal, transmission, or electricity distribution; and<br>− Oil and gas infrastructure, which includes oil and gas transmission and/or distribution |
| **5.** | **Eligible Tender Participants / Project Initiator** | - Indonesian Legal Entity<br>- Foreign Legal Entity/entities. A consortium which contain various business entities is allowed to join the bidding process without establishing Indonesian legal entity , but it is required to establish an Indonesian Legal Entity once appointed as the winning bidder. |
| **6.** | **Types of Project** | Solicited Projects:<br><br>PPP Projects initiated by the Government of Indonesia.<br><br>− Screening process is based on combination of criteria from Bappenas regulation and MoF regulation and also government contracting agencies.<br>− Screening will be done under coordination and discussion between every stakeholders of PPP in Indonesia (Bappenas, MoF, BKPM, government contracting agencies, other related stakeholders). |

[3] Indonesia Infrastructure Guarantee Fund, or *PT. Penjaminan Infrastruktur Indonesia* . IIGF will provide a single window for Government of Indonesia's guarantees for PPP projects. Potential investors may also seek other guarantees from other financial institution (outside GoI's guarantee).

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | − Ready-to-offer projects will be listed publicly. |
| | | Unsolicited Projects:<br><br>PPP Infrastructure Projects initiated by a Business Entity and/or a Foreign Legal Entity, which criteria are:<br><br>− not included in the master plan within that business sector;<br>− technically integrated with the master plan in that business sector;<br>− economically and financially viable, and<br>− does not require government support in the form of fiscal contribution (financial)<br>Compensations for unsolicited projects include:<br><br>− Additional value with a maximum of 10%, or<br>− Right to match, or<br>− Government purchase of the initiated project, including its intellectual property rights |
| **7.** | **PPP Project Stages and Implementation** | PPP project stages and implementation is set out in Bappenas Minister Decree No. 3 of 2012 on General Guidelines of PPP in Infrastructure Provision. Solicited and unsolicited project has each their own respective stages and procurement process.<br><br>A. <u>SOLICITED PROJECTS</u><br>Solicited projects is carried out in four main stages:<br><br>1. Planning, which includes project identification and selection, and establishment of priority project list.<br>2. Preparation, which involves the preparation of preliminary assessment on pre-feasibility study, and the preparation of project readiness assessment.<br>3. Transaction, which includes the completion of preliminary assessment prior on pre-feasibility study, marked by its final report and the draft of business entity procurement plan, and<br>4. Implementation Management, which involves planning and execution of implementation management of the PPP agreement.<br><br>Procurement process for solicited projects are carried out in two stages:<br><br>1. Planning<br>2. Implementation |

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | Details on project stages and implementation, along with the procurement process, are as follows: |

**SOLICITED PROJECT STAGES AND IMPLEMENTATION**

| STAGE I<br>PLANNING | | STAGE II<br>PREPARATION | | STAGE III<br>TRANSACTION | | STAGE IV:<br>IMPLEMENTATION MANAGEMENT | |
|---|---|---|---|---|---|---|---|
| Project identification and selection | Define priority list | Preliminary study to pre-feasibility study | Project readiness study | Completion of pre-feasibility study | - Business entity procurement planning<br>- Business entity procurement implementation<br>- Preparation for contract signing | Planning of contract implementation management | Contract implementation management |
| Output:<br>- project priority list<br>- Preliminary study documents | | Output:<br>Project preparation documents | | Output:<br>Pre-feasibility study documents | Output:<br>- Contract documents<br>- Guarantee documents and regress documents | Output:<br>Project funding; EPC contract; operational contract | Output:<br>Periodical report of project implementatio |

| NO | ASPECTS | INDONESIA |
|---|---|---|

| | | | | |
|---|---|---|---|---|
| | | | | n management |
| | Request for government support and/or government guarantee | | Confirmation/ approval of government support and/or government guarantee | Allocation, disbursement, supervision & monitoring of government support and/or monitoring & evaluation of the implementation of guarantee contract & regress contract. |
| Environmental study by Government Contracting Agency (GCA) | | | | Environmental study by business entity |
| Land Procurement prospecting | | | | |

| ROLE OF AGENCY/ INSTITUTION | | | |
|---|---|---|---|
| Government Contracting Agency (GCA) and/or BAPPENAS | GCA, KKPPI, BKPM, BAPPENAS, Ministry of Finance (PPRF), IIGF, BPN, KLH | GCA, KKPPI, PPRF, IIGF, BKPM, BAPPENAS, BPN | GCA, PPRF, IIGF, BKPM, BAPPENAS, KLH |
| Public Consultation:<br><br>Spreading Information | Public Consultation:<br><br>Consultative Interaction | Public Consultation:<br><br>Probing of Market Sounding | |

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | **SOLICITED PROJECT PROCUREMENT STAGES (Based on Presidential Decree No. 56 of 2011)**<br><br>1) Procurement Planning<br>1. Establishment of Procurement Committee; and<br>2. Preparation of Procurement Plan.<br>a. Preparation of procurement schedule and announcement;<br>b. Preparation of the pre-qualification documents;<br>c. Preparation of the initial projected price (HPS);<br>d. Preparation of public tender documents; and<br>e. Checking and evaluating market interest (market sounding).<br>2) Procurement Implementation<br>1. Pre-qualification<br>a. Prequalification announcement<br>b. Registration of prospective participants<br>c. Expression of interest<br>d. Prequalification documents submission<br>e. Evaluation and clarification of prequalification documents<br>f. Define list of participants who passed prequalification<br>g. Prequalification result validation<br>h. Result announcement<br>2. Bid implementation<br>a. Preparation of participant list<br>b. Invitation for participants to enter the bid<br>c. Bid explanation<br>d. Bid documents submission<br>e. Bid documents retrieval<br>f. Bid evaluation<br>g. Report on procurement results |

<table>
<tr><th>NO</th><th>ASPECTS</th><th>INDONESIA</th></tr>
<tr><td></td><td></td><td>
h. Define winner<br>
i. Announcement of winner<br>
j. Decision Letter of winner<br>
3. Preparation of contract signing.<br>
a. Winner establish a business entity<br>
b. Contract signing
</td></tr>
<tr><td></td><td></td><td>
B. <u>UNSOLICITED PROJECTS</u><br>
Unsolicited projects are carried out in two main stages:<br>
1. Project approval<br>
2. Project procurement<br>
UNSOLICITED PROJECT STAGES AND IMPLEMENTATION
<table>
<tr><th colspan="3">APPROVAL</th><th>PROCUREMENT</th></tr>
<tr><th>STAGE 1</th><th>STAGE 2</th><th>STAGE 3</th><th>STAGE 4</th></tr>
<tr><td>- Preparation of Documents of Project’s Concept & Qualification of prospective initiator (CP)<br>- Government Contracting Agency (GCA) evaluates Documents of Project’s Concept</td><td>- CP carries out completion of feasibility pre-study<br>- GCA thoroughly evaluates Documents of Pre Feasibility Study<br>- GCA issues letter of approval for CP to continue</td><td>- CP carries out completion of Documents of Feasibility Study and Compliance of Prequalification Requirements<br>- GCA thoroughly evaluates Documents of Feasibility Study and Documents of</td><td>- PJPK prepares Plan of Procurement of Business Entity competitively and openly<br>- Expression of Interest (EOI)<br>- Business Entity (BU) submits expression of interest</td></tr>
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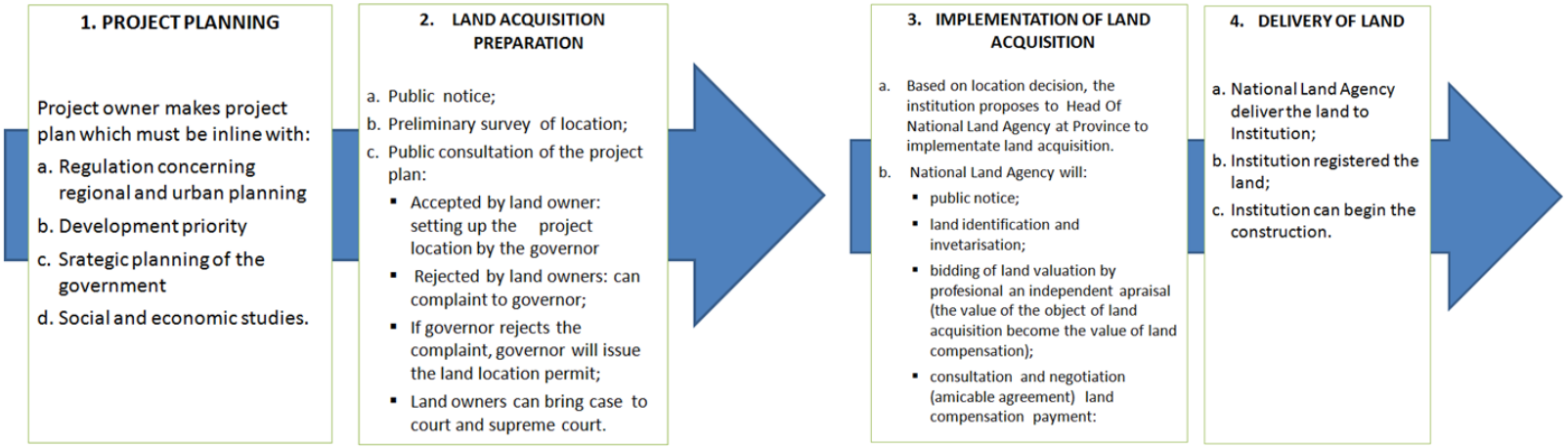
| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | - GCA issues letter of approval for CP to continue preparation of pre-feasibility study<br>preparation of feasibility study<br>Compliance of Prequalification Requirements<br>- GCA determines CP as an Initiator's Business Entity (BUP) and determines compensation for BUP<br>- Pre-qualification (PQ)<br>- BU participates in PQ<br>- Request of Bid<br>- Submission & Evaluation of Bid Documents<br>- Request of Bid (RfP)<br>- Submission & Evaluation of Bid Documents<br>- Determination of Winner – Value Bonus Option<br>- Determination of Winner – Right-to-Match Option<br>- Determination of Winner<br>- Contract preparation and signing |
| **9.** | **Government Support** | − Government supports in the form of (PP56/2011):<br>● Licensing,<br>● Land Procurement,<br>● Partial construction ,<br>● Tax incentives,<br>● Fiscal contribution in financial forms, and/or<br>● Other forms are determined by the Minister/Head of Institution/Head of Regional Government.<br>− Government support shall be included in the procurement document.<br>− Government support in the form of fiscal contribution shall be listed in the state budget and/or regional government budget.<br>− Examples of government support in infrastructure projects: land fund, feasibility support toward part of construction cost in cooperation between the government and the business entities in the provision of infrastructure (VGF), geothermal fund, tax allowances, etc. |
| **10.** | **Government Guarantee** | ▪ Government guarantees include:<br>- Financial compensation, and/or |

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | - Other form of compensation, given by the Minister of Finance through risk-sharing scheme, while considering the principles of financial risks management and control in the state budget.<br>▪ Government guarantees shall be included in the procurement document.<br>▪ Government guarantees in the form of financial compensation shall be awarded by the Minister of Finance through Indonesia Infrastructure Guarantee Fund (IIGF, or *PT. Penjaminan Infrastruktur Indonesia*). Potential investors may also seek other guarantees from other financial institution (outside Government of Indonesia's guarantee). |
| **11.** | **Land Procurement** | Land Procurement is undertaken by the Minister/Head of the Institution/Head of the Region before procurement documents are submitted.<br><br>Law No. 2 of 2012 on Land Procurement for Development in Public Purpose has some important principles as follows:<br><br>− Land for public purposes has to be provided by the State;<br>− Affected people rights are respected and treated justly;<br>− Based on principles of human rights;<br>− Forms of compensation are based on consensus;<br>− Amount of compensation will be based on consensus and fair and just compensation;<br>− Role of Appraiser to determine the amount of compensation;<br>− Certainty in the process;<br>− Reducing speculation;<br>− Land Procurement for public purposes in emergency situation. |

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | Phases of Land Procurement:   |
| **12.** | **Foreign ownership shares** | According to Presidential Regulation Number 39 of 2014 on List of Businesses Closed or Conditionally Open for Capital Investment and sectoral regulation, there are more open business fields related to infrastructure projects, especially using PPP scheme: |

| No. | Business Fields | KBLI | Conditions | Remarks |
|---|---|---|---|---|
| 1. | Piped Water Supply | 36001 | Max 95% | Foreign Capital Ownership |
| 2. | Power Plants | 35101 | | Foreign Capital Ownership |

| NO | ASPECTS | INDONESIA | | | | |
|---|---|---|---|---|---|---|
| | | | (more than 10 MW) | | Max 95%. For projects developed under PPP framework, max 100% during concession period. | (Power plants with less than 10 MW are currently reserved for small and medium enterprises and hence closed to foreign investment) |
| | | | Transmission of Electricity | 35102 | Max 95%. For projects developed under PPP framework, max 100% during concession period. | Foreign Capital Ownership |
| | | | Distribution of Electricity | 35103 | Max 95%. For projects developed under PPP framework, max 100% during concession period. | Foreign Capital Ownership |
| | | 3. | Toll Road | 52213 | Max 95% | Foreign Capital Ownership |
| | | 4. | Management of non hazard waste disposal | 38211 | Max 95% | Foreign Capital Ownership |
| | | 5. | Airport Services | 52230 | Max 49% | Foreign Capital Ownership |
| | | 6. | Port facilities | 52221, 52222, 52223 | Max 49%. For projects developed under PPP framework, max 95% during concession period. | Foreign Capital Ownership |
| | | 7. | Fixed Telecommunication Network | 61100 | Max 65% | Foreign Capital Ownership |
| | | | Mobile Telecommunication Network | 61200 | Max 65% | Foreign Capital Ownership |

| NO | ASPECTS | INDONESIA |
|---|---|---|
| | | |
| **13.** | **Project lists** | In 2014, there are at least 10 infrastructure projects using PPP scheme, which are ready to be offered to potential investors, since they have completed almost all transactional documents needed for the bidding stage.<br>Those 10 infrastructure projects are listed as follows: |

| No | Projects | Government Contracting Agencies | Investment (US$ million)* |
|---|---|---|---|
| 1 | Manado-Bitung Toll Road, North Sulawesi | Indonesia Toll Road Authority (BPJT) | 353 |
| 2 | Tanjung Priok Access Toll Road, DKI Jakarta | Indonesia Toll Road Authority (BPJT) | 612.5 |
| 3 | Cisumdawu Toll Road, West Java | Indonesia Toll Road Authority (BPJT) | 985.1 |
| 4 | Balikpapan – Samarinda Toll Road, East Kalimantan | Indonesia Toll Road Authority (BPJT) | 1,200 |
| 5 | Pandaan – Malang Toll Road, East Java | Indonesia Toll Road Authority (BPJT | 399 |

| NO | ASPECTS | INDONESIA |
|---|---|---|

| | | | |
|---|---|---|---|
| 6 | Soekarno – Hatta International Airport – Jakarta Railways, Banten – DKI | Ministry of Transportation | 2,570 |
| 7 | Surakarta Solid Waste Treatment and Final Disposal, Central Java | Government of Surakarta City | 30 |
| 8 | Bogor & Depok Solid Waste Management and Final Disposal, West Java | BPSR West Java | 40 |
| 9 | Southern Bali Water Supply, Bali | National Supporting Agency for Water Supply System Development (BPPSPAM) | 218.8 |
| 10 | Pondok Gede Water Supply, Bekasi, West Java | National Supporting Agency for Water Supply System Development (BPPSPAM) | 20 |

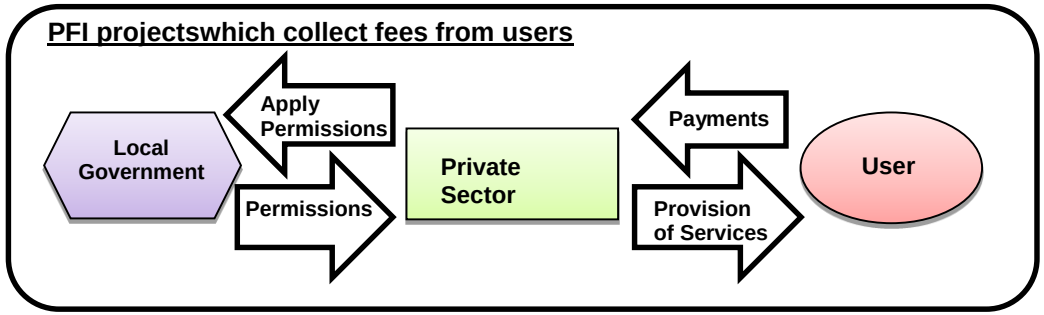
*Investment value according to PPP Book 2013

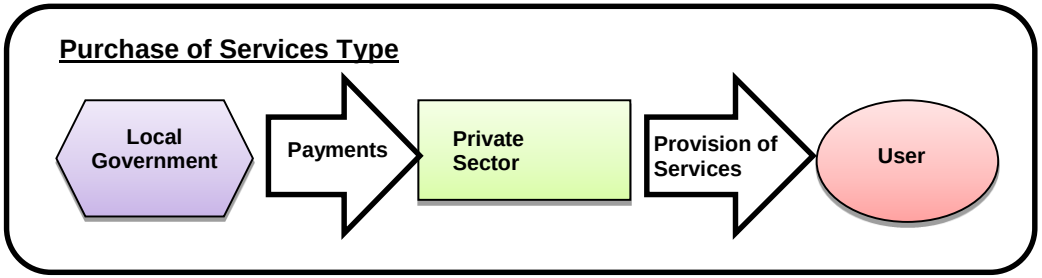
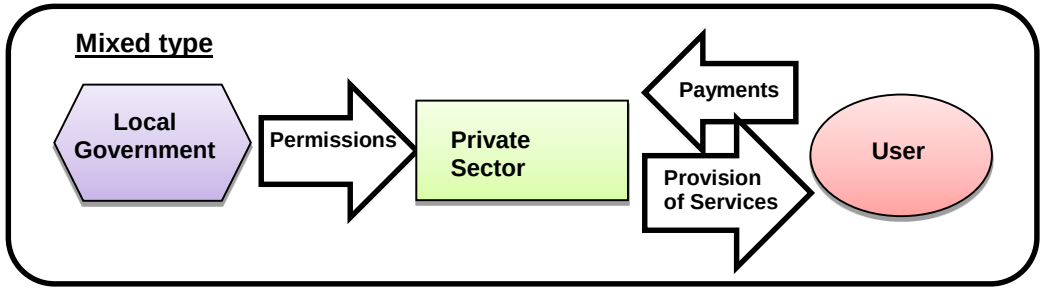
# 8. JAPAN

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | Act on Promotion of Private Finance Initiative(PFI law) etc. |
| **2.** | **Involved Government Agencies** | PFI promotion Office of Cabinet Office, other related ministries, and local governments. |
| **3.** | **Supporting Agencies** | The PFI Promotion Corporation of Japan that supports PFI projects which collect user fees from users, was established in 2013.<br>- Japan Bank for International Cooperation (JBIC) provides various types of financial support to maintain and improve the international competitiveness of Japanese industries. To fulfill the purpose, JBIC has provided many project financings to PPP projects in APEC region where Japanese companies export machinery and equipment or Japanese companies have substantial equity investment.<br>- Japan International Cooperation Agency (JICA) has supporteddevelopinga PPP scheme in the APECregion as well as promoting PPP projects through technical cooperation, grant aid, ODA loans and private sector investment finance.<br>- Ministry of Land, Infrastructure, Transport and Tourism (MLIT) established a new government-funded agency"Japan Overseas Infrastructure Investment Corporation for Transport & Urban Development (JOIN)"for promoting PPP and other projects conducted abroad. The JOIN will encourage private companies to invest in such projects by making joint investment with themwith the investment capacity of $1B (FY2014). |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | Public facilities, such as road and airport. |
| **5.** | **Eligible Tender Participants / Project Initiator** | Eligible tender participants/ project initiators are as follows:<br><br>- One who does not fall under Article 9 of PFI law. |
| **6.** | **Types of PPP Structures/Contract Types** | BTO, BOT, BOO, RO, Concessions etc. |
| **7.** | **Types of Project** | PFI projects could bemainly classifiedinto three types below according to operational costs of a facility.<br><br>(1) Financially independent type:Operational costs are covered by the revenue that comes from users of facilities.<br><br>(2) Purchase of service type: Operational costs (service costs) are covered by the public sector.<br><br>(3) Mixed type:Combination of financial independent type and purchase of service type.<br><br>  <br> |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | |  <br>  |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | (Procedure)<br><br>Receive proposals from private sector applicants.→Administrator of the public facility etc. considers proposals and responds to the applicants.→(If accepted) →Design and publish an implementation policy →Evaluate and select a project, and publicize theQualified selected Project (public notice)→Receive proposals from private sector applicants, and evaluate and select a business operator(s)→ contract →project implementation. |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | (Procedures)<br><br>Issue Implementation Policy→Evaluate and select a project, and publicize the Qualified selected Project (public notice)→Receive proposals from private sector applicants, and evaluate and select abusiness operator(s) → contract → implement and monitor theproject→project completion. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | At project development stage (construction, operation and maintenance of facilities), private sector applicants submit proposalsthat are drafted based on publicly available information, such as specifications of public notice. |
| **11.** | **Project Appraisal and Selection Process** | Before staring a PFI project, a feasibility study whichassessesa prospect of service improvement of a facility and cost effectivenesswill be conducted. Based on the results of the studyand Value for Money (VFM) calculation, Administrator of the public facility decides if PFI would be introduced. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | All relevant ministries and agencies provide consultation services. |
| **13.** | **Role of Local Government** | Local governmentisresponsible for operating PFI projects. |
| **14.** | **Risk Sharing Policies/ Practices** | The PFI promotion office in Cabinet Office publishes a guideline on risk sharing in PFI projects for reference. Risk sharing policiesarespecified in a contract of eachPFI project. |
| **15.** | **Financing Mix Options Allowed** | PFI projects  which collect user fees from userscould be candidates to be financed by the PFI Promotion Corporation of Japan. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Briefing sessions for local governmentsto promote PFI projects are held by the central government.In the water supply sector, the Public Private Partnership Promotion Council is held by METI and MHLW. |
| **17.** | **Monitoring and Evaluation** | Monitoring and evaluation are conducted based on respective contracts. The central government publishes the guideline on project monitoring for reference for people who are engaged in projects in practice. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **18.** | **Dispute Resolution Mechanism** | — |

## Related Policies

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | — |
| **20.** | **Foreign ownership shares** | — |
| **21.** | **Nature/Scope of PPP Capacity Building Interventions/Programs** | — |

## List of Ready-to-Offer Projects

**22.** *A list of projects ready for financing and implementation.*

## 9. REPUBLIC OF KOREA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | – The hierarchy of the legal arrangements for PPP is<br>• Act on Private Participation in infrastructure (PPP Act)<br>• Enforcement Decree of the Act on Private Participation in infrastructure (PPP Enforcement Decree)<br>• Basic Plan for Public-Private Partnerships in Infrastructure (PPP Basic Plan)<br>• Guidelines for the Implementation of PPP Projects (PPP Implementation Guidelines)<br>– The PPP Act and the PPP Enforcement Decree, as the principal components of the legal framework for PPP projects, define eligible infrastructure types, procurement types, procurement process, the roles of the public and private parties, and policy supports. The PPP Act prevails over other acts as for PPP projects.<br>– The PPP Basic Plan and PPP Implementation Guidelines together address, in detail, policy directions, procurement steps, and government supports. The Basic Plan provides PPP policy directions, project implementation procedures, financing and subsidies, and documentation instruction. The Implementation Guidelines are prepared to improve transparency and objectivity in PPP implementation, examples of which include guidelines for VFM test, Request for Proposal (RFP) preparation, standard output specification by facility, tender evaluation, standard concession agreement, and refinancing, etc. |
| 2. | **Involved Government Agencies** | – **Ministry of Strategy and Finance (MOSF)** is responsible for implementing the PPP Act, the PPP Enforcement Decree, and the PPP Basic Plan. It prepares the draft budget for PPPs and develops national PPP policies and formulates the PPP Basic Plan, PPP implementation Guidelines, and Fiscal Rules. It chairs the PPP Review Committee (PRC).<br>– **PPP Review Committee (PRC)** reviews and deliberates the PPP Basic Plan and major PPP policies. It deliberates matters concerning key decisions in the process of implementing large-scale PPP projects. The committee is composed of the minister of the MOSF (chair), vice ministers of line ministries in charge of implementing PPP projects, and private sector experts with knowledge and experience in PPP projects.<br>– **Competent authority**, a central administrative agency or a local government responsible for the infrastructure facility project at issue, takes charge of the works related with the implementation, management, and operation of PPP projects. Specifically, their responsibilities include development of an eligible PPP project and the feasibility analysis thereon; designation and public notification of an eligible PPP project; establishment and public notification of a request for proposals or a request for alternate proposals; assessment of a project plan or proposal and the designation of a preferred bidder; negotiations for the execution of a concession |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | agreement, the execution of a concession agreement, and the designation of a concessionaire; approval of an implementation plan; matters regarding the management and supervision of projects, etc.<br>– **Public and Private Infrastructure Investment Management Center (PIMAC)**, as a PPP unit under the PPP Act, provides comprehensive and professional support for the implementation of PPP projects. The PIMAC conducts the following tasks: supporting the MOSF in the formulation of the PPP Basic Plan; supporting the competent authorities and ministries in the procurement process, such as assessments of feasibility and value for money for potential PPP projects, formulation of the request for proposal, designation of the concessionaire, evaluation of project proposals by private companies, negotiation with preferred bidder, etc.; promoting foreign investment in PPP projects through consultation services and other related activities; and developing and operating capacity-building programs for public sector practitioners. Besides these technical assistances, it conducts policy research related to PPP programs and provides policy advice to the MOSF and procuring ministries. It also prepares and publishes detailed guidelines for each work for the implementation of PPP projects.<br>– **Korea Infrastructure Credit Guarantee Fund (KICGF)** was established in August 1994, under the provisions of the 'Act on Private Participation in Infrastructure. The objective of the Fund is to facilitate securing public-private partnership project fund and guarantee the pecuniary obligations falling under the each subparagraph of Article 34(1) of the Act. |
| **3.** | **Supporting Agencies** | – Refer to #2 for details. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | – Under the PPP Act, 49 infrastructure facility types in 16 sectors are eligible for PPP procurement.<br>• Road (4): roads and appurtenances; off-road parking lots; intermodal transfer center and intelligent transport system; facilities for bicycle riding.<br>• Rail (3): railroads; railroads facilities; urban railroads.<br>• Port (3): harbor facilities; fishery harbor facilities; facilities subject to a new harbor construction project.<br>• Airport (1): airport facilities.<br>• Water resources (3): multi-purpose dams; waterwork systems; river facilities. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | • Communications (5): telecommunication facilities; information and communication network; spatial information system; super-high speed information and communication networks; infrastructure of ubiquitous cities.<br>• Energy (4): electric source facilities; gas supply facilities; integrated energy facilities; new and renewable energy facilities.<br>• Environment (5): sewage systems; waste disposal facilities; wastewater treatment terminal facilities; public treatment facilities; recycling facilities.<br>• Logistics (2): logistics terminal and logistics complexes; bus terminals.<br>• Culture and tourism (9): tourist destinations and resort complexes; urban parks; specialized sports facilities; jevenile training establishments; libraries; museums and art galleries; international conference facilities; science museums; cultural facilities.<br>• Education (1): kindergartens and schools.<br>• National defense (1): military residential facilities.<br>• Housing (1): public rental housing.<br>• Welfare (4): nursing facilities; residential care facilities, medical care facilities, and facilities for home care for the elderly; public health and medical service facilities; welfare facilities for persons with disabilities.<br>• Forestry (2): natural and recreational forest; arboretums.<br>• Industrial cluster (1): industrial cluster infrastructure. |
| **5.** | **Eligible Tender Participants / Project Initiator** | – The private sector which comprises corporations including foreign corporations and public joint corporations may propose a PPP project to be implemented as an unsolicited project by drawing up a written proposal and submitting it to the competent authority.<br>– The competent authority specifies matters concerning the eligibility of the concessionaire when formulating and announcing the master plan of PPP project, which include the followings: the essential qualifications and capabilities of a project applicant; the form of company; the equity share of the largest investor and high-level investors, etc. |
| **6.** | **Types of PPP Structures/ Contract Types** | – BTO (Build-transfer-operate), BTL (Build-transfer-lease), BOT (Build-operate-transfer), BOO (Build-own-operate), RTO (Rehabilitation-transfer-operate), ROT (Rehabilitate-operate-transfer), ROO (Rehabilitate-own-operate), RTL (Rehabilitate-transfer-lease) or mixture of BTO and BTL are applicable.<br>– Other methods are also used by the competent authority in RFPs (request for proposals) for PPP projects and by the private sector in project proposals, such as build-lease-transfer, rehabilitate-operate-transfer, rehabilitate-own-operate, and rehabilitate-transfer-lease, etc. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 7. | **Types of Project** | – PPP projects are categorized into solicited and unsolicited depending on who initiates the project.<br>• Solicited project: The competent authority - central or local government - identifies a potential PPP project and solicits proposals from the private sector.<br>• Unsolicited project: The private sector identifies a potential PPP project and requests designation of the project as a PPP from the competent authority. The initial proponent may obtain bonus points in the bid evaluation although the concessionaire is selected under a competitive bidding process. |
| 8. | **Project Stages and Implementation for Solicited Proposals** | – Designation of PPP project.<br>– Announcement of Request for Proposals.<br>– Submission of project proposals.<br>– Bid evaluation and selection of preferred bidder.<br>– Negotiation and contract award.<br>– Approval of detailed engineering and design plan for implementation.<br>– Construction and operation. |
| 9. | **Project Stages and Implementation for Unsolicited Proposals** | – Submission of project proposal.<br>– Review of project proposal. (Feasibility Study)<br>– Notification of request for alternate proposals.<br>– Bid evaluation and selection of preferred bidder.<br>– Negotiation for concession agreement. |
| 10. | **Mechanisms to Engage Private Sector at Project Development Stages** | – The private sector that identified a potential PPP project may request designation of the project as a PPP from the competent authority. Based on the merits of the initial proposal, bonus points within 10% of the total evaluation points can be awared upon the review of the VFM assessment. The initial proponet can modify its original proposal; however, the maximum level of bonus points to the initial proponent is reduced to 5% of the total evaluation points. When the competent authority sets the ratio of bonus points to be granted to the initial proponent, it shall clearly state the ratio in the request for alternate proposals.<br>– The PIMAC, as one of its roles, conducts various public relations activities at home and abroad in relation to PPP projects through providing foreign investors with counseling services for investment, conducting activities for inviting foreign investment, holding project presentation sessions, etc. |
| 11. | **Project Appraisal and Selection Process** | – Solicited project:<br>• (Preliminary feasibility study) If the competent authority intends to implement a project with a total project cost of not less than KRW 50 billion, out of which KRW 30 billion or more shall be subsidized by the central government, as a PPP project, it shall file |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | an application for the preliminary feasibility study with the MOSF. PIMAC commissioned by the MOSF conducts the preliminary feasibility study to examine project feasibility and presents its findings.<br>• (Feasibility analysis) For a project with total project cost expected to be less than KRW 200 billion, the competent authority itself conducts a feasibility analysis, including a VFM test, and determines whether it is appropriate as a PPP project. However, for a project with total cost expected to be KRW 200 billion or more, the competent authority is required to submit the results of feasibility analysis and basic design documents to the PIMAC for review. Then, the competent authority shall request that the MOSF submit the project to the PRC for deliberation, while including the results of the feasibility analysis and the findings of the PIMAC.<br>– Unsolicited project:<br>• (Review of project proposal) Where the competent authority deems that the project proposal submitted by private sector meets the formal requisites and conforms to the PPP Act and subordinate statutes and the policies of the competent authority, it shall ask the PIMAC to review the details of the project proposal before deciding upon whether the proposed project is to be implemented as a PPP project. Then, the PIMAC conducts feasibility study and VFM test, and submits its opinion on the proposal to the competent authority and the MOSF.<br>• (Designation and notification) Taking into consideration the opinion of the PIMAC, the competent authority shall notify the private proponent when it decides to implement a project proposed by a private sector as a PPP project and shall give public notice of outlines of the proposal through the Official Gazette, three or more daily newspapers, the competent authority's website, and the website of the PIMAC so that alternate proposals are permitted. To implement a project with total costs of more than KRW 200 billion or requiring a subsidy from the central government, prior deliberation by the PRC is required. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and** | – There are numerous mechanisms to provide support to a PPP project. These include the followings:<br>• (Governmental Financial Support) The competent authority may provide financial support to a concessionaire in the form of construction subsidies or long-term loans if it is necessary to maintain the user fee at a reasonable level;<br>• (Assistance in securing land) In order to facilitate a PPP project, a concessionaire may use or expropriate land and other property and may entrust the competent authority with purchase of land, compensation for losses, and other affairs. The competent |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Transaction Advisory** | authority may assist a concessionaire by permitting the concessionaire to use and benefit from state-owned and public property within the area prearranged for the project without consideration;<br>• (Exemption from Charges and Taxes) The government may exempt a PPP project fully or partially from charges and taxes such as the farmland conservation charge, the substitute forest development cost, the VAT on an infrastructure facility or construction service, the corporate tax, income tax, acquisition tax, registration tax, and property tax, etc;<br>• (Compensation for proposal preparation expense) The competent authority compensates unsuccessful bidders as a result of the evaluation of project plans or proposals for part of expenses incurred in preparing the project plans or proposals in order to maximize the creativity and efficiency of the private sector by facilitating competitions between project proposals;<br>• (Minimum revenue guarantee) A certain fraction of projected annual revenues may be guaranteed when the actual operating revenue falls considerably short of the projected revenue prescribed in the contract. Although it was abolished in October 2009, it is still applicable to projects with concession agreements already completed;<br>• (Investment risk-sharing system) The government pays the amount of shortfall when the actual operation revenue is less than the level of risk-sharing revenue, and the government subsidies are redeemed on the basis of realized payments. For details refer to #14 below;<br>• (Credit guarantees and buyout options) Through the Infra Credit Guarantee Fund (ICGF), credit guarantees for PPP project financing are provided to enhance the timely payment of debt service. Other buyout options are prepared for force majeure and specific events. |
| **13.** | **Role of Local Government** | – Local government acts as a competent authority when the project is subsidized by the central government and implemented by the local government or an inherently local project. It shall take charge of the concomitant works in relation to the implementation, management, and operation of PPP projects. Refer to #2 for the details of role of a competent authority. |
| **14.** | **Risk Sharing Policies/ Practices** | – (Principles for allocation of risks) Risks related to the implementation of a PPP project shall be classified into risks respectively caused by the government's fault, the concessionaire's fault, and a force majeure according to the kinds of fault. The specific types of risk, the classification and allocation of risks caused by each kind of fault shall be stipulated in the concession agreement. In principle, risks caused by the government's faults shall be taken by the government, while risks caused by a concessionaire's faults shall be taken by the concessionaire in such cases. The costs incurred by a force majeure and uncovered by insurance shall be shared according to mutual agreement. In this case, the competent authority bears 80% of the costs for a non-political case, and 90% for a political case as a rule.<br>– (Investment risk-sharing) With the MRG, a certain fraction of projected annual revenues may be guaranteed when the actual operating revenue falls considerably short of the projected revenue prescribed in the contract. Although it was abolished in October 2009, it is still applicable to projects with concession agreements already completed. Under the newly introduced risk-sharing mechanism to replace the MRG, the government shares the revenue forecast risk with the private sector by compensating, so-called "risk-sharing revenues (base costs)" of the project, i.e., the sum of private investment costs and the interest rate of government bonds. Subsidies are given only when the actual operational revenue is higher than 50% of the risk-sharing revenue, |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | and are redeemed when the actual operational revenue exceeds the risk-sharing revenue. This new mechanism applies only for government-solicited projects with significant public benefits.<br>– (Interest Risk-sharing in BTL projects) The competent authority may share the risk of interest rate changes partially in order to implement BTL PPP projects smoothly if the interest rate changes suddenly due to financial market conditions.<br>– (Right to request buyout) The concessionaire of a revertible infrastructure facility may request the government to purchase the projects if it is impossible to build or manage and operate the facility due to a natural disaster or a force majeure. |
| **15.** | **Financing Mix Options Allowed** | – (Equity ratio requirement) The financing arranged by the concessionaire should consist of equity and debt, and the concessionaire must comply with the minimum equity capital requirement ratio stipulated in the PPP Basic Plan. In principle, the ratio for a BTO PPP project is 20% during construction, and 10% during operational period. As for BTL project, the minimum equity capital ratio of a concessionaire may be agreed flexibly within the range between 5% and 15% of the total private project cost to the extent that investors' responsibility for construction and operation can be guaranteed, taking into consideration the level of risks in each project, other requirements for guarantee and insurance, etc. The ratio of a project with total project cost of less than KRW 100 billion, however, shall be 5% of the total private project cost in principle.<br>– (Refinancing) Concessionaire may change investors' share, capital structure, debt financing condition, and so forth after a concession agreement has been concluded. In this case, the concessionaire is required to notify the competent authority on refinancing plans in advance, and to obtain a approval from the competent authority. The competent authority and the concessionaire share the gain resulting from the refinancing on a 50:50 as a rule. For those projects without MRG or investment risk-sharing clause, however, a 30:70 rule is applied instead.<br>– (Government support) The government may grant a construction subsidy or extend a long-term loan to the concessionaire, if it is required to maintain the user fee at an appropriate level. The amount of construction subsidy is determined in each individual concession agreement. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | – Where the competent authority formulates or modifies the master plan for facilities project, it shall give public notice of a request for proposals through the Official Gazette and three or more daily newspapers and shall also publish it through the website of the PIMAC in such cases. For a project with a total project cost not less than KRW 200 billion, the competent authority shall first bring the case to the PRC for review and shall state essential contents of the plan in English additionally.<br>– In case there is no project proposal submitted by the private sector within the specified deadline indicated in the RFP (at least 90 days), the competent authority may give public notice thereof again only once within 6 months from the original deadline. |
| **17.** | **Monitoring and Evaluation** | – Ex-post management and monitoring during operation is conducted by the public sector, usually the competent authority. PPP projects in the Republic of Korea are managed by each competent authority, and the management structure is stipulated in each concession agreement. Each competent authority manages projects by controlling guidelines for concession agreements and receiving project progress reports. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | – The competent authorities must carry out performance evaluations on all BTL PPP projects periodically and submit the results to the MOSF on a semiannual basis. Government payments to the concessionaire will vary depending upon the performance evaluation results. |
| **18.** | **Dispute Resolution Mechanism** | – Through revision of the PPP Act in November 2011, a PPP Dispute Resolution Committee has been established under the MOSF as a means to resolve any dispute involving PPP projects. The Committee conducts fair mediation of disputes that are difficult to be settled by the parties involved because of disagreements over unexpected incidents. The committee is composed of no more than nine members; one chairperson, other members who represent the government, the concessionaire and the public interest. The Committee shall submit a written draft of mediation within 90 days from the date of request for dispute resolution. This may further extend up to 60 days. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | – The overall process of land acquisition or expropriation for public works, such as infrastructure facilities and public buildings, is prescribed by the Land Acquisition Act. Unless any special provision is provided in the PPP Act or related laws, the procedure under *the Act on the Acquisition of and Compensation for Land, etc. for Public Works* applies to the expropriation or use of the land needed for the implementation of PPP project.<br>– Under the Act, land acquisition is carried out by the concessionaire or project company of the associated public works. After the plan for public works is settled by the public sector, the concessionaire prepares the list of land compensation or expropriation, which defines objects for acquisition, their conditions, and scope of related parties. Then it announces compensation plans and notifies them to landowners, interested parties, and local governments. After consultation with landowners and interested parties, the concessionaire enters into a contract on compensation with related parties.<br>– In the case of land belonging to the national or a local government located in the area designated for a PPP project, a concessionaire conducts a prior consultation with the concerned administrative agency about the use of land. Such land cannot be sold for purposes other than for the PPP project after the date of announcement of the requests for proposals. |
| **20.** | **Foreign ownership shares** | – There are no specific restrictions on foreign ownership shares in the PPP Act. Refer to #15 for the general principle of equity ratio requirement. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | – The PPP Act mandates that the PIMAC provide training and education programs with respect to the implementation of PPP projects. Training and education courses are provided for working-group officials and decision makers in both public and private sectors.<br>– The PIMAC provides training and education courses on PPP projects for interested government officials and private sector professionals. It also offers training and education programs on the overall PPP system for government officials and private sector professionals of developing countries. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

- For the list of request for proposals, visit the PIMAC's website at http://www.pimac.org.

## 10. MALAYSIA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | 1) Federal Constitution;<br>2) National Land Code 1965;<br>3) Enabling Act/Provisions;<br>4) Privatisation Masterplan; and<br>5) PPP Guideline. |
| **2.** | **Involved Government Agencies** | 1) Public Private Partnership Unit, Prime Minister's Department (a dedicated unit for processing PPP proposals and obtaining government approvals); and<br>2) Line ministries and agencies (for implementation and contract management). |
| **3.** | **Supporting Agencies** | 1) Ministry of Finance;<br>2) Attorney General's Department;<br>3) Economic Planning Unit, Prime Minister's Department;<br>4) Department of Director General of Lands and Mines, Ministry of Natural Resources & Environment;<br>5) Department of Valuation and Property Services, Ministry of Finance; and<br>6) Respective line ministries/agencies (case by case basis). |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | 1) Education;<br>2) Health;<br>3) Infrastructure; and<br>4) Services. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **5.** | **Eligible Tender Participants / Project Initiator** | 1) Strong technical and financial capabilities; and<br>2) Relevant expertise to manage and maintain the asset. |
| **6.** | **Types of PPP Structures/ Contract Types** | 1) Build-Lease-Maintain-Transfer (BLMT);<br>2) Land Swap/Joint Venture (JV);<br>3) Build-Operate-Transfer (BOT);<br>4) Build-Lease-Transfer (BLT);<br>5) Build-Operate-Own (BOO);<br>6) Management Contract;<br>7) Sale of Assets and Equity; and<br>8) Corporatisation. |
| **7.** | **Types of Project** | 1) Projects initiated by the private sector (unsolicited proposals); and<br>*2)* Projects initiated by the government (solicited proposals). |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | 1) Submission of PPP proposals from the ministries/agencies<br>2) Evaluation of PPP proposal and submission to Cabinet for approval in principle<br>3) Ministries/agencies/PPP Unit prepare bidding document and undertake invitation to bidders<br>4) PPP Committee to evaluate and endorse the preferred bidder<br>5) Approval in principle from the Cabinet for the selection of the preferred bidder<br>6) Value management lab for detailed technical specifications and finalising costing<br>7) Negotiation of terms and conditions with the selected company (may occur concurrently with value management lab)<br>8) Memorandum to the Cabinet on finalised terms and conditions<br>9) Signing of PPP agreement<br>10) Project implementation |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | 1) Submission of PPP proposals from the private sector<br>2) Evaluation of PPP proposals and submission to Cabinet for approval in principle<br>3) Approval in principle from the Cabinet for the selection of the company<br>4) Value management lab for detailed technical specifications and finalising costing<br>5) Negotiation of terms and conditions with the selected company<br>6) Memorandum to the Cabinet on finalised terms and conditions |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | 7) Signing of PPP agreement<br>8) Project implementation |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | Private sector is engaged at project development stage through value management lab in which the need and scope of project are discussed briefly between private and the government. |
| **11.** | **Project Appraisal and Selection Process** | A PPP proposal will only be considered if there is a need on the part of the government for the project after taking into account the benefits as a whole in terms of, inter alia:<br>1) Socio-economic impacts;<br>2) Value for money and cost savings to the government;<br>3) Quick delivery of the project and service enhancement; and<br>4) Increased level of accountability, efficiency and effectiveness. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | There are cost sharing facilities and government soft loans in toll highways projects. However, financial guarantee and demand guarantee had been discontinued. |
| **13.** | **Role of Local Government** | Among the roles of local government in supporting PPP are: |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | 1) Approval of Development Order;<br>2) Approval of Building Plan; and<br>3) Issuance of Certificate of Completion and Compliance (CCC). |
| **14.** | **Risk Sharing Policies/ Practices** | The risk should be allocated to the party that can best manage it. This needs to be determined by assessing each party's ability to influence the risk factor and correspondingly mitigate the risk to the greatest extent possible. |
| **15.** | **Financing Mix Options Allowed** | Land acquisition cost for highway projects borne by the government through the Facilitation Fund. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | PPP projects are promoted through:<br><br>1) Website;<br>2) Seminars/conferences/talks/knowledge sharing sessions;<br>3) Media such as newspaper, magazines etc; and<br>4) Road shows. |
| **17.** | **Monitoring and Evaluation** | After the awarding of the PPP project and upon getting the financial close of the project, the implementing ministry/agency is responsible to monitor the project implementation particularly to ensure compliance with the terms and conditions as well as Key Performance Indicator (KPI) identified in the contract. |
| **18.** | **Dispute Resolution Mechanism** | Any matter, dispute or claim between the parties in respect of any matter under the concession agreement may be referred by any party to a Dispute Resolution Committee (DRC) identified in the agreement. The DRC shall meet and endeavor to achieve an amicable settlement between the parties in respect of any matter, dispute or claim referred to it. If any matter, dispute or claim which is referred to the DRC cannot be agreed by the relevant parties, any party aggrieved may refer that matter, dispute or claim to arbitration. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | The project land is required to be transferred/reserved to the government prior to the implementation of PPP projects. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **20.** | **Foreign ownership shares** | In general, foreign equity ownership is restricted up to 25% of total equity in PPP projects. However, exemption of up to 49% may be given on a case by case basis. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | PPP related modules in procurement courses were conducted by the National Institute of Public Administration (INTAN) on a regular basis. On other occasions, public officials were given opportunities to attend PPP courses and seminars organised by the public and private sector. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

**None**

## 11. MEXICO

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | • Law of Public Private Partnerships<br>• Regulation of the Law of Public Private Partnership<br>• Law of Public Works and Services Related<br>• Law of Acquisitions, Leases and Services of the Public Sector<br>• Law of the Federal Budget and Fiscal Responsibility<br>• Law of Science and Technology<br>• Guidelines and Technical Handbooks issued by Ministry of Finance |
| **2.** | **Involved Government Agencies** | • Ministry of Finance (SHCP)<br>  ○ Inversion Unit of the Ministry of Finance<br>• Ministry of Public Administration (SFP)<br>• Ministry of Environment and Natural Resources (Semarnat)<br>• Ministery of Agrarian Development, Territorial and Urban (Sedatu)<br>• Interministerial Commission on Public Expenditure, Finance and Privatization |
| **3.** | **Supporting Agencies** | • Independentengineers, byproject<br>• Social Witnesses for those projects with initial investment over 400 million UDIS (Investment Units) |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | • Economic Infrastructure Projects for the provision of services to the public sector or final user.<br>• Social Infrastructure Projects for the provision of services to the public sector or final user.<br>• Governmental Infrastructure Projects for the provision of services to the public sector or final user.<br>• Buildings projects for administrative offices.<br>• Productive Investment Projects, applied research and technological innovation. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | Mexican Constitution reserve to the State economic activities in the energy sector, such as the provision of electricity and activities in oil and gas. Also, the Foreign Investment Law restricts foreign participation in specific sectors to certain percentages of ownership or, to the approval of the Foreign Investment Committee (airports, ports, etc.). |
| **5.** | **Eligible Tender Participants / Project Initiator** | • Any Mexican corporationwith the singular purpose of developing a public-private partnership project (Special Purpose Vehicle/Entity SPV/SPE), with whom held the respective agreement and granted the correspondent authorizations. |
| **6.** | **Types of PPP Structures/Contract Types** | • BOT (Build, Operate and Transfer)<br>• TBOT (Transfer, Built, Operate and Transfer)<br>• DBFO (Design, Built, Finance and Operate), in minor scale. |
| **7.** | **Types of Project** | • Pure Project: when the resources to pay for the provision of services to the public sector or final user and the investment, operation, and infrastructure maintenance, come entirely from federal budget.<br>• Combined Project: when the resources to pay for the provision of services to the public sector or final user and the investment, operation, and infrastructure maintenance, come from federal budget and at least another different source.<br>• Self-sustainable Project: when the resources for development and project execution come entirely from contributions other than federal budget; private resources, or revenues generated by the project itself. |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | 1. Call Publication (Request for Proposals), even through electronic means.<br>2. The federal entitycould make the participants' registration as well as preliminary revisions to the documentation other than that referred to the financial offer.<br>3. The bidders will have one or more stages for consultation and clarification, in which the federal entityshould officially answer any questions the participants have submitted.<br>4. The deadline for proposals submission shall not be less than twenty days from the date of the Request for Proposals.<br>5. Once the proposals have been evaluated, the project will be awarded to the bidder who submitted the solvent proposal, which is the proposal that meet the legal, technical and economic requirements, in accordance with the criteria set.<br>*6.* The decision will be announced at a public meeting at which the contestants could freely attend and will be published in the webpage"CompraNet". |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | The Article 26 of the Law on Public Private Partnershipestablishesthat any corporation interested in a public-private partnership project may submit its proposal to the agency or entity competent.<br><br>Requirements:<br><br>1. To present a preliminary feasibility study that includes:<br>a. Project Description.<br>b. Technical, legal, economic and financial feasibility studies.<br>c. Social profitability cost, under "reasonable assumptions" (Art. 44 Regulation Public Private Partnership Law).<br>d. Authorizations description<br>e. Investment estimations and their sources (building and operation stages) and income and expenses estimated flows.<br>f. Essential agreement characteristics including the proposed scheme of risk distribution between the parties.<br>*2.* The competent agency that receives the proposal will have a term up to three months for testing and evaluation. This period may be extended for an additional three months, when the complexity of the project requires. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | • The outsourcing of the execution of the work or the provision of services may only be made in the terms and conditions set forth in the rules and expressly agreed upon by the parties and after approval by the contracting agency. In any case, the developer will be solely responsible to the contracting entity.<br>• The developer may assign contract rights, as a whole or in stages, prior authorization of the contracting agency.<br>• In public-private partnership projects, the developer will be responsible for the provision of services to agreed performance levels and, where appropriate, construction, equipment, maintenance, and repair-minor and major-, of the infrastructure necessary for the provision of these services.<br>• Those works and services provided by private corporations under a PPP scheme will not be subject to the Law of Public Works and Services Related neither the Law of Acquisitions, Leases and Services. |
| **11.** | **Project Appraisal and** | • To determine whether an infrastructure project may be develop in any specific PPP form, a Cost-Benefit Analysis should be carried out. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Selection Process** | • Subsequently, the Eligibility check for PPP Projects method aims to assess the potential of a project to be implemented in the public-private partnership mode. The methodology is mainly based on the factors and variables identification, which an interdisciplinary group of experts should analyze and evaluate, assigning each a rating or value according to a predetermined scale. Based on the values assigned to each of these variables, the method calculates an index (a value), which measures the potential of a project to be developed in PPP mode.<br>• For PPP projects of the Pure or Combined form resulting on a eligibility index method of 3.1 or more, the federal agencies will be in a position to continue with the implementation of public-private comparator ("Value for Money"). |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | • The Federal Government agencies will give priority to projects developed under public-private partnership schemes, in the assessment and procedures regarding compliance with the requirements of environmental protection provisions, human settlements, urban development, construction, land use and others that may be applicable at the federal level.<br>• The Federal Government agencies involvement on public-private partnerships projects may be developed using resources of the National Infrastructure Fund (FONADIN): a) Recoverable Loans and b) UnrecoverableLoans.<br>• In order to maximize the private capital participation in infrastructure projects promoted by Federal Government agencies, with low financial returns but high social returns, FONADIN could grantsubsidies, in order to contribute to their financial stability |
| **13.** | **Role of Local Government** | • PPT Law applies to local projects, only when they are developed with federal funds, that is, when the states and municipalities contributions as a whole, are lower. Those funds established in the Chapter 5 of the Fiscal Coordination Law, does not applyfor purposes of this calculation.<br>• In terms of land acquisition and land use, local governments are also competent for PPP development projects. |
| **14.** | **Risk Sharing Policies/Practices** | • General rule: operation, provision of services, infrastructure developing and project financing risks, will be borne by the developer.<br>• The risks should be allocated to the agent who is best able to bear them or handle them and which, therefore, will reduce their costs. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **15.** | **Financing Mix Options Allowed** | • FONADIN grants subordinated and / or convertible loans to private sector entities that receives any license, permit or other contracts that allows public-private partnerships to build, operate, and / or maintain infrastructure projects.<br>• Also FONADIN grants warranties or financial coverage, in order to facilitate funding access for infrastructure projects.<br>• Finally, the FONADIN is authorized to make complementary and temporal risk capital contributions (equity) that allows corporations to have enough capital resources to carry out infrastructure projects. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | • Private Equity Funds: capital market is the main alternative funding source for infrastructure projects in the short and medium term. Returns of investment offered by Mexican infrastructure assets are high relative to that observed historically, resulting in a combination of attractive risk-return and a unique opportunity for the investor. |
| **17.** | **Monitoring and Evaluation** | • The Ministry of Public Administration (SFP) will supervise the preparation, initiation and conferment of public-private partnerships projects.<br>• Only the highly technical aspects of PPP projects will not be subject to the supervision of the Ministry of Public Administration<br>• Monitoring the provision of services, projectdevelopment and general compliance public-private partnership projects, will correspond to the contracting federal entity. |
| **18.** | **Dispute Resolution Mechanism** | • In case of technical or economic divergence, the parties will try to resolve by mutual agreement and with good faith principle.<br>• Negotiation stage will have a term for that purpose agreed by the parties. In the event that the parties fail to reach a term agreement the dispute should be submitted to a committee made of three experts, one appointed by each party and the third appointed by the latter.<br>• The committee will know those technical or economic divergence issues, but will be unable to know legal issues.<br>• Furthermore, parties of a public-private partnership contract may agree to an arbitration, to resolve disputes arising on the contract implementation. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | • The responsibility to purchase the properties, assets and necessary rights for PPP project implementation may be held by the federal entity, the developer, or both, as may be stated in the agreement; In any case, the agreement should always state the necessary amounts to purchasethe properties, assets and necessary rights.<br>• The acquisition of such properties, assets and rights shall be made by conventional way or expropriation. |
| **20.** | **Foreign ownership shares** | • There is no possible participation for private corporations in the energy sector (electricity and hydrocarbons, included nuclear energy).<br>• For the remaining sectors, investment restrictions are limited to the establishment of a Mexican corporation. |
| **21.** | **Nature/Scope of PPP Capacity Building Interventions/Programs** | • Promotion of Public-Private Partnership in Mexican States Program (PIAPPEM), Inter-American Development Bank (IDB).<br>• National Development Plan 2013-2018, Mexican Federal Government.<br>• National Program of Investment in Infrastructure and Communications 2013-2018. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

1. *Tuxpan – Tampico Road Project.*
2. *Federal road Coatzacoalcos-Villahermosa, in the Mexican state of Tabasco.*
3. *City of Puebla circumferential highway.*

## 12. NEW ZEALAND

### Legal and Regulatory Structures

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | New Zealand has no specific laws or regulations with govern PPP procedure and implementation. However, the following government publications mandate the consideration of PPP procurement.<br><br>• Cabinet Office Circular on Capital Asset Management – which sets out the government's expectations for the approval of, and assurances relating to, major capital projects. (www.treasury.govt.nz/statesector/investmentmanagement)<br>• Government Rules of Sourcing – which govern the planning and execution of procurement by government agencies in New Zealand. (http://www.business.govt.nz/procurement/for-agencies/key-guidance-for-agencies/the-new-government-rules-of-sourcing)<br><br>In addition, the following legislation is relevant:<br><br>• Public Finance Act 1989 – which specifies the principles for responsible fiscal management effective and efficient management of public financial resources.<br>• Overseas Investment Act 2005 – which specifies the criteria for consent, and conditions to be met, for overseas persons to own or control sensitive New Zealand assets.<br><br>New Zealand legislation can be accessed at: www.legislation.govt.nz |
| 2. | **Involved Government Agencies** | New Zealand's centre of PPP expertise is the PPP Team within the New Zealand Treasury. The Treasury PPP Team is responsible for the New Zealand PPP model and policy and is actively involved in the execution of all PPP transactions.<br><br>Each agency retains responsibility for the delivery of their own project, however the Treasury PPP Team provides hands on PPP and commercial negotiation support within the project team to bring experience across the PPP programme and ensure preservation of PPP principles and policy.<br><br>To date, the following government agencies have entered into PPP transactions directly:<br><br>• The Ministry of Education |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | • The Department of Corrections<br>• The New Zealand Transport Agency<br><br>Certain projects will also require involvement from monitoring agencies (such as the Ministry of Transport in respect of all transport PPP projects) while the Treasury will provide monitoring or second opinion advice in relation to all PPP projects. |
| **3.** | **Supporting Agencies** | New Zealand government agencies instruct specialist (private sector) legal, commercial, financial and technical advisors to assist with PPP transactions. A conflict of interest management framework applies in respect of all advisors. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | To date, New Zealand PPP has been applied in the following sectors:<br>• Education (schools)<br>• Justice/Corrections (prisons)<br>• Transport (state highways)<br><br>Agencies that are planning any significant investment (including any arrangements with Local Government Authorities seeking Crown funding or support) must evaluate all procurement options, including PPPs, and it is therefore likely that PPP procurement will be applied in further sectors as relevant projects arise in the future.<br><br>All PPP transactions utilise a two stage procurement process. An open Invitation for Expressions of Interest (EOI) is released publicly and EOI respondents are shortlisted to participate in the Request for Proposals stage. |
| **5.** | **Eligible Tender Participants / Project Initiator** | Consortia must include all parties required to deliver the scope of services. Proposals are required to be fully funded at the time they are submitted.<br><br>All private sector business entities (domestic and international) are permitted to form consortia and respond to invitations for EOI. Private sector business entities may face competition in joining consortia but the Government does not impose any restrictions on |

<table>
<tr><th>NO</th><th>ASPECTS</th><th>DESCRIPTION</th></tr>
<tr><td></td><td></td><td>participation. The New Zealand government prefers that consortia enter into arrangements with debt providers on a non-exclusive basis to provide liquidity during the proposal development stage.<br><br>EOI evaluation is typically predicated on an assessment of capability and capacity of private sector parties to deliver the project.</td></tr>
<tr><td>6.</td><td>Types of PPP Structures/ Contract Types</td><td>In the New Zealand context, a PPP is a long term contract for the delivery of a service, where provision of the service requires the construction of a new asset, or enhancement of an existing asset, that is financed from external (private) sources on a non-recourse basis, and full legal ownership of the asset is retained by the Crown.<br><br>The New Zealand PPP model is predicated on DBFM/DBFMO models which require the private sector contractor to design, build, finance and maintain the asset. Operational services may be included where appropriate to deliver the service outcomes sought from the project (DBFMO).<br><br>DBFMO contracts are seen as more advantageous as they encourage greater levels of innovation in service delivery, increase the level of risk transfer to the private sector and reduce the number of interfaces that the public sector has to manage.</td></tr>
<tr><td>7.</td><td>Types of Project</td><td><table>
<tr><th>Initiator</th><th>Sector</th><th>Asset/project classification</th></tr>
<tr><td>Ministry of Education</td><td>Education</td><td>Schools (DBFM)</td></tr>
<tr><td>Department of Corrections</td><td>Justice/Corrections</td><td>Prisons (DBFM & DBFMO)</td></tr>
<tr><td>New Zealand Transport Agency</td><td>Transport</td><td>State Highways (DBFMO)</td></tr>
</table></td></tr>
<tr><td>8.</td><td>Project Stages and Implementation for Solicited Proposals</td><td>The relevant government agency first prepares a business case recommending PPP procurement which must be approved by senior government Ministers (Cabinet). Market sounding activities are carried out with selected private sector participants in order to fully inform the business case. All PPP transactions then utilise a two stage formal procurement process. An open invitation for EOI is released to the public and up to three EOI respondents are shortlisted to participate in the Request for Proposals (RFP) stage. Proposal development occurs through an interactive tender process whereby respondents have the opportunity to meet with the procuring agency to clarify its requirements and test elements of its developing solution. These are formal structured sessions and conducted with high probity standards to ensure that no respondents are advantaged or disadvantaged. Final submitted proposals are</td></tr>
</table>

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | evaluated (in accordance with evaluation criteria included in the RFP documents) and a preferred bidder is selected with whom final contractual negotiations are conducted prior to contractual and financial close. |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | The New Zealand government recognizes that sometimes private sector parties have ideas that are unique, innovative and may be valuable to government, even though it may not be something that has been identified as a current need or priority.<br><br>While the New Zealand government is open to unsolicited proposals, serious consideration will generally be given only to exceptional proposals that demonstrate unique concepts or benefits that cannot otherwise be obtained in the marketplace or that are only able to be provided by a single supplier, eg, as a result of IP or capability issues<br><br>Unsolicited proposals will generally only be considered where they:<br><br>• are unique<br><br>• provide value or significant benefit to the New Zealand taxpayer, ie:<br><br>- they address significant government needs, or<br>- they offer more effective technical or service delivery improvement opportunities, or<br>- they contribute significantly to the general economic development and well-being of New Zealanders<br>• are not advance proposals for a requirement that has already been identified, and perhaps socialised in the market<br><br>• are not readily obtainable in the marketplace<br><br>• have been developed independently, without government assistance<br><br>• include sufficient detail so that the government can assess whether it is worthwhile<br><br>The above business case development would be required if the government were to consider any unsolicited proposal and consideration given to whether an open and competitive tender process was appropriate. |
| **10.** | **Mechanisms to Engage Private Sector at Project** | As noted above, market sounding activities are carried out with selected private sector participants in order to fully inform the business case. These activities are structured and conducted in accordance with high probity standards. These sessions are used to provide information in relation to the project as well as testing elements of the project as it is being developed which is an important mechanism |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Development Stages** | to elicit views from private sector parties in relation to the structure of the project, commercial terms and the proposed performance regime. |
| **11.** | **Project Appraisal and Selection Process** | Government agencies are required to consider the suitability of PPP procurement for all significant investments. The Treasury PPP Team is available to assist with this consideration. In New Zealand, PPP procurement has been implemented for the primary reason of improving the focus on whole of life outcomes delivered from infrastructure investments (rather than lower cost, 'on time, on budget' delivery, of financing purposes). PPP procurement is selected for projects where it offers value for money relative to conventional procurement methods, that is, where PPP procurement offers improved service delivery outcomes for no greater cost than delivering the asset and services through conventional methods.<br><br>Specifically, three critical elements are tested to ensure the project will achieve value for money:<br><br>i) market sounding: to ensure that there is sufficient market interest in the project as a PPP in order to drive a competitive process;<br>ii) qualitative analysis: which compares procurement models based on the characteristics and objectives of the project; and<br>iii) quantitative analysis: which tests whether the project offers sufficient scope for innovation and efficiencies to enable the private sector to offset the additional costs of procurement and finance.<br><br>To ensure value for money is achieved, respondents' proposals must meet an affordability threshold that is published with the RFP documents. |

## Project Support, Financing, and Management

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Significant government resources are committed to the procurement process, however no financial support is provided directly to private sector parties participating in a PPP procurement process. On a case by case basis, contributions to design development costs may be paid to unsuccessful respondents for the purchase of intellectual property.<br><br>In the specific case of the New Zealand Transport Agency, a crown indemnity has been provided in respect of cash flows due to the Contractor for a state highway PPP. This support was required due to unique factors specific to the Transport Agency's funding model. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **13.** | **Role of Local Government** | Local government bodies have not yet implemented PPP procurement. However analysis specific has been commissioned regarding the suitability of PPP procurement to local government infrastructure projects. The Treasury PPP Team is committed to working with local government bodies to consider and implement PPP procurement where appropriate. |
| **14.** | **Risk Sharing Policies/ Practices** | Risks are transferred to the party best placed to manage and mitigate those risks. Risks are allocated on a project specific and case by case basis. However, for illustrative purposes the private sector will generally bear all design and construction risks and availability risk. The Crown generally retains demand, resource/environmental consenting and specific change in law risks. |
| **15.** | **Financing Mix Options Allowed** | New Zealand PPP transactions to date have featured a mix of senior bank debt (on a non-recourse basis) and equity financing. The projects are generally highly geared to provide maximum efficiency. Senior debt terms observed to date are for a period of five to seven years between refinancing points. Lenders' debt margins are based on floating interest rates, with the government entering into long term interest rate swaps through its own separate arrangements. However, the government welcomes cost-effective longer term debt solutions if these can be provided by the private sector. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Potential projects are socialised with known potential private sector participants as early as practicable. As noted above, market sounding activities are conducted during business case development and invitations for Expressions of Interest are released and advertised publicly. The Treasury PPP Team welcomes enquiries from interested international parties. |
| **17.** | **Monitoring and Evaluation** | Procuring entities appoint Contract Managers to each project who monitor and evaluate the performance of the project , both in absolute terms and relative to other assets/projects in the procuring entity's wider network. One of the principles of PPP procurement in New Zealand is that procuring entities will learn from private sector innovation in asset design and service delivery, thus leveraging the benefits of single PPP projects. The Treasury PPP Team monitors contract management and performance over time to ensure that these benefits are being derived. |
| **18.** | **Dispute Resolution Mechanism** | The New Zealand Standard Form PPP Project Agreement contains provision for Disputes Resolution through the establishment of a Disputes Panel to consider any disputes which may arise.<br><br>This Panel consists of four members, two appointed by each of the Crown and the Contractor. Where a unanimous decision cannot be reached within the allocated timeframe either party may elect to submit the dispute to an Accelerated Dispute Panel which consists of up to three independent experts nominated by selected professional services organsations LEADR (Lawyers Engaged in Alternative Dispute Resolution), NZICA (New Zealand Institute of Chartered Accountants), and IPENZ (Institution of Professional Engineers New Zealand). |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | Resolutions of the Disputes Panel and/or determinations of the Independent Expert under the Accelerated Disputes Resolution process are final and contractually binding on the Crown and the Contractor. |

## Related Policies

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | The Crown retains ownership of the land throughout the life of the PPP project. Where necessary, the Crown will acquire any land and gain designation consents required, under the Resource Management Act 1991, for a project prior to the commencement of the PPP procurement process. |
| **20.** | **Foreign ownership shares** | The Overseas Investment Office must grant consent for any investment by overseas investors in sensitive New Zealand assets – including in relation to 'sensitive' land and high value businesses (worth more than $100 million). However, there is no specific limitation on foreign investment in PPP projects or limitation as part of PPP policy. International investors may hold equity in the Contractor Special Purpose Vehicle for the project, or participate in the Contractor consortium. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | While there are no formal capacity building programmes for government agencies, the Treasury PPP Team is responsible for the development of the PPP programme and engages with all government agencies where capability and capacity building is required. This team also engages with a number of agencies and private sector participants through participation in regular seminar and conference presentations.<br><br>The Treasury PPP Team acts as a central government centre of expertise which ensures that capability is built, retained and shared across all of government while avoiding the need for each agency to develop its own expertise. |

## List of Ready-to-Offer Projects

**22.** *A list of projects ready for financing and implementation.*
There are two projects currently near the end of the procurement process.
As at 15 April 2015, there are no new projects that have been approved for PPP procurement. However, the New Zealand Transport Agency has commenced certain preliminary preparatory work for the procurement of a second state highway PPP, including market sounding.
Further detail on current and upcoming projects can be requested by contacting ppp@treasury.govt.nz or found at www.treasury.govt.nz/ppp

## 13. PAPUA NEW GUINEA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | - PNG National Public Private Partnership Policy Framework<br>- Public Investment Program (Department of National Planning and Monitoring)<br>- Medium Term Development Plan 2011-2015<br>- Medium Term Debt Strategy (MTDS)<br>- Medium Term Fiscal Strategy (MTFS)<br>- Public Finances (Management) Act 1995 and the Fiscal Responsibility Act 2006.<br>- PNG Development Strategic Plan 2010-2030<br>- PNG Vision 2050<br>- National SME Policy<br>- Independent Consumer and Competition Commission Act |
| **2.** | **Involved Government Agencies** | - Ministry/Department of Treasury<br>- Department of National Planning & Monitoring<br>- State Solicitors Office (Department of Justice & Attorney General)<br>- Department of Prime Minister & National Executive Council<br>- The Legislation of the PPP Bill will create the PPP Centre/unit. Submission for legislation is before the National Executive Council (NEC). |
| **3.** | **Supporting Agencies** | - PPP Centre<br>- PPP Steering Group<br>- PPP Forum<br>- Line Agencies covers all National, Provincial and District Government departments and entities that are charged with the mandate to deliver government services that can benefit from partnership with the private sector. The PPP Centre will report to the Government on the performance of parties against this PPP policy. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | - Telecommunications & IT, Energy/Electricity, Oil & Gas, Agriculture, Health, Education, Construction & Real Estate, Transport, water and sanitation/waste management. |
| **5.** | **Eligible Tender Participants / Project Initiator** | - In all cases, the commitment of the Government to enter into PPP contracts with the private sector is required to comply with the Government's medium and longer term strategies – the Medium Term Development Strategy (MTDS), Medium Term Debt Strategy (MTdS) and the Medium Term Fiscal Strategy (MTFS), including consistency with the fiscal rules guiding public investment projects. It will include international best practice in probity of project awarding and delivery process. |
| **6.** | **Types of PPP Structures/ Contract Types** | - Direct Provision of Infrastructure and Services- government assume the financing and delivery risk entirely on the balance sheet of the Treasuries and generally use the capacity of the public service to manage the delivery of such projects.<br>- Privatization and Outsourcing- government transfers the financing and delivery risk solely to the private sector under 'privatization' programs whereby capital-intensive infrastructure projects highways, power generation etc, are awarded to the private sector on a long term basis.<br>- Public Private Partnerships (PPP) - government ensures value for money and shares the risks with the private sector in a partnership approach. Risk is transferred to the partner that is best able to manage that risk – generally, the private sector bears the financing, delivery and completion risks while the government bears risks associated with service delivery, land acquisition and meeting minimum revenues to ensure the projects remain financially viable. |
| **7.** | **Types of Project** | - Transport Infrastructure (land, air, sea)<br>- Communications & Technology<br>- Energy/Electricity<br>- Water & Sanitation/Waste Management<br>- Health<br>- Education |
| **8.** | **Project Stages and Implementation** | - The PPP Project Process is outlined in the National Public Private Partnership Policy.<br>- The PPP Project Process consists of four stages, beginning with development followed by procurement, implementation (construction and operation), and termination on a consecutive basis. The PPP Centre shall play the central role throughout the |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **for Solicited Proposals** | PPP process, in particular during the development and procurement stages. The PPP Centre shall help ensure that sound analysis is used as the basis of determining whether the project should be offered to the market as PPP and under what PPP transactions model, and to ensure that the awarded private sector counterpart shall provide the best value for money.<br>-<br>**STAGE 1 - DEVELOPMENT**<br><br>• Submission of Project Concept Note from Line Agency or SOE to the PPP Centre<br>• Development of the Outline PPP Business Case<br>• NEC Approval<br>**STAGE 2 – PROCUREMENT**<br><br>• Advertising for Expressions of Interest (EOI) and Prequalification<br>• Advertising for Expressions of Interest (EOI) and Prequalification<br>**STAGE 3 - CONSTRUCTION AND OPERATION**<br><br>• Upon signing of the concession or partnership agreement, the private proponent will have been provided with a reasonable period in which to proceed to financial closure. The Government and contractor should then proceed to satisfy the conditions precedent as soon as possible.<br>• When independent regulators are involved, the Government will focus on its role as project owner, and the regulator will act as a referee to monitor service delivery and act as an objective party to take decisions that ensure the best interests of all parties are safeguarded.<br>• The Project Committee will then complete its work and the Contract Management Team within the relevant line agency, assisted by the PPP Centre, will begin its work in ensuring that the private proponent delivers the project on schedule and according to specifications. The PPP Centre is expected to provide assistance to the Contract Management Team, particularly given the PPP Centre understands the project contract. Advisers' services can be sought to assist the Contract Management Team.<br>**STAGE 4 - CONTRACT TERMINATION**<br><br>- Contract termination can occur during the period of the partnership due to triggers as stipulated in the agreement or by the end of the partnership period. The Line Agency, and the independent regulatory body if any, shall be responsible for this process. This shall include surveying project status, including assets and future needs for the project. In reviewing the options for continuing the project, the PPP Centre shall provide advice and expertise in selecting the most economically favorable option, prior to concluding the PPP with the existing private counterpart.<br>- |

| NO | ASPECTS | DESCRIPTION |
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| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | - The PPP Policy envisages that it will consider unsolicited proposals from the private sector for infrastructure projects that are NOT in the project list of any Line Agencies and/or SOEs – i.e. the unsolicited project has attributes that justify its inclusion in this category, and has not already been considered by the Government, Line Agencies and/or the SOEs.<br>- The process for consideration of an unsolicited bid will be defined in due course. However, in principle, the proponents of an unsolicited project will be given an opportunity to develop a business case at their own costs on the understanding that the technical sections of their business case will be used for a competitive bidding process should the project be deemed a priority. The PPP Law, to be developed in due course will specify in detail the preferential treatment that may be afforded to unsolicited bidders for having spent their own resources to develop a feasibility study or business case for such projects. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | - Privatization and outsourcing – government transfer the financing and delivery risk solely to the private sector under privatization programs whereby capital-intensive infrastructure projects such as highways, power generation etc, are awarded to the private sector on a long term concession basis.<br>- Public Private Partnerships (PPPs)- government ensure value for money and share the risks with the private sector in a partnership approach. Risk is transferred to the partner that is best able to manage that risk while the government bears the risks associated with service delivery, land acquisition and meeting minimum revenues to ensure the projects remain financially viable. |
| **11.** | **Project Appraisal and Selection Process** | *A brief explanation on the how projects are assessed, prioritized, and selected as a PPP project.*<br><br>- PPP Policy shall only apply to projects with a total cost of PGK 50 million or more. The National Executive Council (NEC) may alter this minimum benchmark for PPP projects.<br>- All projects of PGK 50 million or more must be submitted to the PPP Centre to test whether a PPP would be the most suitable modality. Exemptions from delivery of the projects as a PPP must be approved by NEC on the recommendation of the Minister for Treasury.<br>- PPP Centre briefly reviews project concept notes (PCN) within 2 weeks. If it is in line with government strategies, PPP Centre reviews PCN in more detail within a month. If suitable for PPP, PPP Centre reviews Business Case within a month and then forward it for NEC's approval. PPP Centre reviews shortlist within a month. If adequate to proceed, PPP Centre conducts further reviews within two months before the bid is approved by the NEC for delivery. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | - The PPP Framework is also required to be fully consistent with the responsibilities for financial management and accountability as outlined in the Public Finances (Management) Act 1995 and the Fiscal Responsibility Act 2006.<br>- The Annual National Budget will continue as the central process for the ultimate prioritization of expenditure (including debt financing) by the Government. |
| **13.** | **Role of Local Government** | - Help in monitoring and reporting to the PPP Centre on all projects carried out on the ground in each respective local level government areas.<br>- Help supervise project delivery and government participation |
| **14.** | **Risk Sharing Policies/Practices** | - There is a substantial risk sharing or risk transfer from the public sector to the private sector.<br>- The public sector and the private sector enter into a concession agreement or contract that is usually time-bound and sets out the principles for the partnership and the responsibilities and obligations of both parties.<br>- Government is not obliged to make any payments either for capital works or services unless and until such works or services are completed to the pre-agreed standards and/or service targets stipulated in the concession agreement.<br>- Generally the private sector assumes the completion and delivery risks while the public sector will assume approval and regulatory risks.<br>- The detailed risk allocation will be determined on a case by case basis through negotiation between the government and the private sector service providers. |
| **15.** | **Financing Mix Options Allowed** | - Government is not obliged to make any payments either for capital works or services unless and until such works or services are completed to the pre-agreed standards and/or service targets stipulated in the concession agreement.<br>- PPPs involve the use of private sector capital to fund an asset which is used to deliver outcomes for the public sector. Under a PPP, the asset may not be ultimately owned by the public sector, however, PPPs involve a long term financial commitment by the public sector through payments to the private sector, to allow the private sector to recoup the cost of their investment. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | - PPP Centre through the Project Committee prepares expression of interest (EOI) documentation and solicits preliminary interests from the market (i.e, through the public procurement and tender process published in daily newspapers).<br>- PPP Centre through Project Committee evaluate submitted EOIs and compose shortlist of potential bidders. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 17. | **Monitoring and Evaluation** | - In continuously improving the quality in delivering PPP projects, the PPP process shall undergo regular and comprehensive review that is conducted in an open and transparent manner. The PPP Centre shall monitor the adherence to the PPP process and identify any need for revisions required to maintain the relevance of the PPP process with the ongoing developments of Papua New Guinea's PPP programs. |
| 18. | **Dispute Resolution Mechanism** | - Dispute settlement and supervision is separated from line agency when independent regulators are involved.<br>- All dispute resolutions for aggrieved parties settled through normal PNG court systems and dispute resolution under relevant applicable laws of contract agreement between the public sector and private sector. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 19. | **Land Acquisition** | - Land acquisition will depend on the type and scope of the project whether it is the responsibility of the private sector proponent (contractor) or the public sector (government). |
| 20. | **Foreign ownership shares** | - In any case, capital intensive projects may be open for foreign direct investment and participation given that domestic bidders lack the capacity to participate.<br>- Foreign ownership will be dependent within the existing laws of Investment Promotion Act 1992 and Companies Act 1997. |
| 21. | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | - To support the operations of the PPP Centre the following concurrent work will be undertaken in due course. The funding for this additional work will be determined by the Taskforce. The additional works are:<br>- • The conversion of the PPP Policy to PPP Law.<br>- • The development of regulatory and institutional arrangements.<br>- • The development of standard operating procedures and various manuals, such as project appraisal, guidelines etc.<br>- • The appropriate institutional arrangements for setting up a PPP Centre are to be determined.<br>- Concurrent to the above PPP related works, it is also envisaged that the Department of Planning & Monitoring will lead the development and publication of a National PPP Infrastructure Pipeline.<br>- The National PPP Infrastructure Pipeline will consist of a number of economic and social infrastructure priority projects and from these priority projects a number of pilot projects will be selected for transactions as PPP projects. |
| 22. | **List of Ready-to-Offer Projects** | - Currently, there are no particular "ready to offer" projects listed although certain projects are being assessed using the PPP modality. Even if the PPP option is deemed the most viable from these assessments, actual implementation cannot be entered into until after the PPP law comes into effect. |

## 14. PERU

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
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| **1.** | **Legal and Regulatory Framework** | • Legislative Decree 1012 – Approves the Public-Private Partnership Framework Law for the Generation of Productive Employment and dictates regulations for the streamlining of Private Investment Promotion Processes (‘PPP Law´).<br>• Supreme Decree 127-2014-EF – Regulation of the Public-Private Partnership Framework Law. Modified by Supreme Decree N° 376-2014-EF.<br>• Supreme Decree 059-96-PCM – Single Ordered Text of Rules that regulates the granting in concession to the private sector of Public Infrastructure Works and Public Services.<br>• Supreme Decree 060-96-PCM – Regulations for the Single Ordered Text of Rules that regulate the granting in concession to the private sector of Public Infrastructure Works and Public Services.<br>• Law 29951 – Public Sector Budget Law for Fiscal Year 2013 (96th Complementary and Final Provision).<br>• Legislative Decree 674, which declares of national interest the promotion of private investment in Government companies<br>• Law 27701, through which provisions are established to guarantee matching rules between privatization and concession processes and regulatory legislation.<br>• Law 28059, Decentralized Investment Promotion Framework Law and its regulations, approved by Supreme Decree N° 015-2004-PCM and its amendments<br>• Law 26885 – Law of Incentives to concessions of Public Infrastructure Works and Public Services.<br>• Supreme Decree N° 132-97-EF – Approves the regulation of tax benefits for private investment in Public Infrastructure Works and Public Services<br>• Supreme Decree 054-2013-PCM – Approves Special Provisions for the Execution of Administrative Procedures applicable to public-private partnership projects.<br>• Article 22 of Law 27785, Law of the National Control System and the Comptroller General of the Republic, which establishes the powers of the Comptroller General of the Republic to inform in advance about transactions, bonds, and other guarantees granted by the Government, including Final Draft of the PPP Contracts, which compromises its credit or financial capacity, whether they are negotiations in the economy or abroad. |
| **2.** | **Government Agencies Involved** | • **Agencia de Promoción de la Inversión Privada [Private Investment Promotion Agency] – PROINVERSION**, it leads and conducts private investment promotion processes (promotion of private investment in infrastructure and public services through PPPs), receives and makes the arrangements for Self-sustained Private Initiatives (PI) of national reach and those co-financed for infrastructure and public services, whether of a national, regional or local reach. Also, PROINVERSION has the capacity to identify |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | and formulate public infrastructure work or provision of public services projects susceptible of being promoted under the scheme of public private partnerships.<br>• **Ministry of Economy and Finance** – as the central budget authority and the entity that sets policy on private investment, it issues the initial opinion in case of projects that require guarantees or are co-financed by the Government. It also issues favorable opinion regarding the final version of contracts in promotion processes and in the assessment process of a co-financed PI.<br>• **Ministries** – they ask PROINVERSION to conduct the private investment promotion processes in the projects the Ministries have prioritized, coordinate with PROINVERSION during the promotion process and must deliver an opinion on the final version of the contract. In the case of a PI, they issue an opinion during the assessment of the initiative for the declaration of interest and they coordinate with PROINVERSION during the process.<br>• **Regulatory organisms**– they coordinate when necessary with PROINVERSION during the promotion process and issue favorable opinion on the final version of the contract. In the cases of PI, they issue an opinion during the assessment of the initiative for the declaration of interest.<br>• **Comptroller General of the Republic** – it is involved in all matters that compromise the creditworthiness or the financial capacity of the Government. During the promotion process, it issues an advanced report in the cases in which the projects involve co-financing or guarantees from the Government.<br>• **Regional Governments** – They are empowered to conduct private investment promotion processes which are within their jurisdiction and area of responsibility. They receive the self-sustained PI submitted and which correspond to their jurisdiction and area of responsibility. Regional Governments can ask PROINVERSION to conduct private investment promotion processes on their behalf.<br>• **Local Governments**– They are empowered to conduct private investment promotion processes that are within their jurisdiction and area of responsibility. They receive self-sustained PI submitted and which correspond to their jurisdiction and responsibility. Local Governments can ask PROINVERSION to conduct private investment promotion processes on their behalf. |
| **3.** | **Supporting Agencies** | • They are mentioned in point 4. |

**Project Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | As defined by the PPP Law (Legislative Decree N° 1012, which was subsequently modified by Law 30167), the objective of PPPs is to create, develop, improve, operate, and maintain public infrastructure and services that the public sector must provide. Another goal of PPPs is to develop applied research and technological innovation projects.<br><br>All infrastructure and public services sectors. The portfolio of projects from PROINVERSION, to be developed by PPP in 2014-2015 includes:<br>• Sanitation<br>• Transportation (Highways, ports, airports, railroad projects, cable cars, logistics platform .)<br>• Telecommunications<br>• Energy and Hydrocarbons<br>• Health<br>• Justice (Penitentiary affairs)<br>• Tourism<br><br>Possible projects in the Education sector are being assessed. |
| **5.** | **Eligible Participants / Project Initiator** | The specific requirements, in technical and financial aspects, that the companies should comply with, are established in the terms of *private investment promotion processes*. However, in general, any domestic or foreign legal person or a consortium formed by them may participate in these processes. Once the award is granted, an Special Purpose Vehicle (SPV) shall be established for the development of the project. |
| **6.** | **Types of PPP Structures / Contract Types** | Any kind of contractual modality recognized in the national legislation:<br>• Concession<br>• Joint Venture.<br>• Management Contract.<br>• Outsourcing<br>• Others allowed by the law.<br>The most used is the concession contract for the Design, Construction, Financing, Operation and Maintenance. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 7. | **Types of Projects** | • **By its initiator**: (i) State Initiative– when it is the State that identifies the need to develop a specific project, performs initial studies and calls a bid; (ii) private initiative– when it is a private entity the one that submits to the State an innovative project it is interested in developing, and has prepared the initial studies.<br>• **By the need of state resources:** (i) Self-sustained project –when it requires financial and nonfinancial guarantees from the government with a null or minimum probability of demanding the use of public resources; (ii) Co-financed project – when it requires financial and nonfinancial guarantees with a significant probability of demanding the use of public resources or when it requires resources or guarantees from the government. |
| 8. | **Project Stages and Implementation of Solicited Proposals** | 1. **Inclusion of the project in *the private investment promotion process* and approval of the promotion plan –**approved by the Steering Council of PROINVERSION (maximum body of PROINVERSION formed by 5 Ministers) and a Supreme Resolution is issued ratifying the mentioned approvals. This procedure applies to projects that have been declared of national relevance or that have been assigned to PROINVERSION.<br>2. **Publication of the promotion Plan**, general design of the process.<br>3. **Call** of the *private investment promotion process*. The process will be conducted by a Special Committee which is appointed by the Steering Council of PROINVERSION and is composed by 3 members.<br>4. **Publication of Bid Terms**– it is generally done jointly with the call. The bid terms and all the information about the process is published in the Web page of PROINVERSION. The interested investor must acquire the participation rights in order to be able to make inquiries about the bid terms and contract drafts and to participate in the Qualification Stage..<br>5. **Inquiries about the bid terms and proposals for modifications to the contract projects**– During the process there is a stage in which the interested investor may make inquiries about the bid terms which shall be solved by the Special Committee in charge of the process. It may also submit proposals for modifications to the contract drafts as they are published.<br>6. **Qualification Stage–** The interested investor should comply with legal, technical and financial requirements in order to qualify and to pass to the stage of technical and economic proposal assessment. Once defined which the qualified companies are, no other interested party may individually apply to the process.<br>7. **Submission of the technical proposal–** The bidder submits its technical proposal according to the requirements of the bid terms, which will be assessed by the Special Committee. The proposals that are declared valid will pass to the next stage.<br>8. **Submission of the economic proposal and award –** The bidder submits its economic proposal according to the competition factor established in the terms of the process. This presentation is made in a public event with the presence of a public notary. After the assessment, which is made in the same public event, the successful bidder is declared and the award is granted.<br>9. **Closing process–** Date in which the contract is signed, with prior compliance of the requirements established in the terms and conditions of the process. |

| NO | ASPECTS | DESCRIPTION |
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| | | |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | **UNSOLICITED PROPOSALS (UP):**<br><br>There are two kinds of UP:<br><br>**1. <u>Self-sustained</u>:** This kind of proposals may not require financial support from the Government<br><br>**a. Presentation**: Self-sustained unsolicited proposals that contain projects of a national scope may be submitted to PROINVERSION. The UP has the character of "grace request" until the proposal submission due date which implies that the right of the proponent is exhausted once the PI is submitted, and it is not an obligation of the State to accept the proposal.<br>b. **Admission:** PROINVERSION assesses the submitted UP for compliance with the minimum requirements established by regulations on UPs, in order for it to be admitted for procedure by the PROINVERSION Committee.<br>**c. Assessment:** For said assessment, the project contained in the initiative is sent to the corresponding sector to issue an opinion of interest and relevance of the project to its sector; and if it is of interest, the opinion of the regulatory organism is requested (in case the initiative is financed with tariffs of public services) and to the Ministry of Economy and Finance, in case the project considers guarantees. In this stage the Government may make modifications to the project contained in the initiative, and if accepted by the proponent, will be part of the proposal.<br>d. **Declaration of Interest:** With favorable opinion from the corresponding Ministry, the Ministry of Economic and Finance and the Regulator, if applicable, the Steering Council of PROINVERSION declares it interest on the UP and said declaration is published in the Official Newspaper "El Peruano", and in another newspaper of national distribution, as well as in the Web page of PROINVERSION. The declaration of interest contains the substantial aspects of the project and its purpose is to inform interested third parties about the project<br>**e. Presentation of interested third parties:** Once the declaration of interest is published, interested third parties may submit, within 90 days, statements of interest in the same project or in alternative projects (i.e. a project with a different objective but using the same resources). |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | f. **Direct Award:** If there are no interested third parties' submissions within the indicated term, it shall proceed to a direct awarding of the project to the proponent of the initiative. In this stage, non-essential aspects of the contract to be signed shall be negotiated.<br>g. **Bid:** If interested third parties for the same project exist, an unsolicited proposals promotion process shall be carried out. During the selection process, the proponent has the right to match the offer that came up in first place, resulting in a final tiebreaker, which should take place within 15 calendar days from the opening of economic proposals. If the proponent is not granted the award, and the bid presented was declared valid, it shall have the right to reimbursement of expenses effectively made in the preparation of the UP, as well of major expenses originated by the preparation of any additional information requested during the assessment of the initiative, until the declaration of interest.<br>h. **Closing date:** After the granting of the award, if the private initiative corresponds to a concession, the grantee of the award shall form a special purpose company which will sign the contract with the Peruvian Government. The final version of the PPP contract must previously get the favorable opinion of the Ministry of Economy and Finance, otherwise the PPP contract will be void.<br><br>**2. <u>Co-financed:</u>** This kind of proposals require financial support from the Government<br><br>**a. Presentation:** Co-financed Unsolicited Proposals (CUP) are submitted to PROINVERSION within the first 45 calendar days of every year. A CUP should include the minimum requirements established in Article 25 of the Supreme Decree 127-2014-EF. A CUP has the nature of a "grace request" until the proposal submission due date, which implies that the right of the proponent is exhausted once the CUP is submitted, and it is not an obligation of the government to accept the proposal.<br>**b. Admission:** PROINVERSION determines whether a CUP complies with the minimum applicable requirements and may be admitted for procedure by the PROINVERSION Special Committee.<br>**c. Prioritization and Relevance:** PROINVERSION submits all the CUPs to the competent entities, and ask them to determine the priority of each CUP that they deem consistent with their priorities and strategic objectives.<br>• For projects under the competence of the National Government, entities will be required to justify their arguments in order to consolidate an order of priority of CUPs. PROINVERSION will instruct the Ministry of Economy and Finance (MEF) to prepare a Fiscal Impact Report. After receiving the report, PROINVERSION |

| NO | ASPECTS | DESCRIPTION |
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| | | will announce the projects that have been assigned a budget allocation, in order that the entities may issue opinions on the relevance and priority of the CUPs applicable to them.<br>• For projects under the competence of Regional and Local Governments, PROINVERSION will instruct MEF to issue an opinion on the maximum amount that the entities may commit to invest. This opinion will be informed to the entities so they may issue their opinion on the relevance and priority of the CUPs applicable to them.<br>**d. Assessment:** For assessment purposes, the proponent will prepare pre-investment studies on the public investment project, in compliance with the regulations for the National Public Investment System (SNIP). After the viability of the project has been declared, PROINVERSION will perform a Comparative Analysis. Subsequently, a Declaration of Interest draft will be issued.<br>**e. Declaration of Interest:** With the favorable opinion of the competent entity, MEF and the Regulator (if the CUP is co-financed by public service fees), the Steering Council of PROINVERSION declares its interest on the CUP and such declaration is published in the Official Newspaper "El Peruano", in another newspaper of national distribution, and on the PROINVERSION website. The declaration of interest contains the substantial aspects of the project and is intended to inform interested third parties about the project.<br>**f. Presentation of interested third parties:** Once the declaration of interest is published, any interested third parties may submit, within 90 days, their statements of interest in the same project or in an alternative project. For CUP purposes, alternative projects are defined as those intended for the same objective that propose different alternatives of solution or technical alternatives.<br>g. **Direct Award:** If no interested third parties submit proposals within the term above, PROINVERSION will award the project directly to the entity that submitted the proposal. Non-essential aspects of the contract to be signed are negotiated in this stage.<br>**h. Bid:** If there are third parties interested<br>• In the same project: a selection process shall be carried out. If the proponent participates in the selection process and has filed the information required in the terms, the proponent will have the right to match the offer that came up in first place. If applicable, a final tiebreaker will take place at the act of opening of economic proposals and award. |

| NO | ASPECTS | DESCRIPTION |
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| | | • In alternative projects: Any alternative projects will be rejected unless they are found to generate more benefits than the original proposal. If alternative projects are admitted, a Bid for Comprehensive Projects will be announced and conducted by applying criteria that guarantees competition between alternative projects,<br>The proponent must submit a valid economic bid. If the proponent is not granted the award, it will have rights to the reimbursement of any expenses effectively incurred for the preparation of the CUP and those derived from the preparation of any additional information that may have been required during the assessment of the initiative, until the declaration of interest. The final version of the PPP contract must previously get the favorable opinion of the Ministry of Economy and Finance, otherwise the PPP contract will be void.<br><br>i. **Closing date:** After the granting of the award, the PPP Contract is signed. |
| **10.** | **Mechanisms to Involve the Private Sector with Project Development Stages** | • Interested investors are very involved with private investment promotion processes due to the transparency of the latter and because it is a very market-friendly mechanism. Investors have enough time to make inquiries on the bid terms, which will be solved by the Special Committee that conducts the process. The final version of the contract is the result of a process of consultations with the market and regularly includes several proposals coming from the potential bidders. We should indicate that all replies to inquiries and contract versions are published; therefore, all bidders will be informed of the replies and additional information given to each of the bidders. |
| **11.** | **Project Assessment and Selection Process** | For purposes of inclusion into the private investment promotion process projects for infrastructure and public services provision through the PPP modality, an Assessment Report is prepared with the following minimum content:<br><br>For all kinds of projects:<br><br>a. Name, description and objective of the project.<br>b. Importance and consistency with local, regional or national priorities, as appropriate.<br>c. Classification as self-sustaining or co-financed project.<br><br>For self-sustaining projects:<br><br>d. Diagnosis about the current provision, identifying the characteristics of the existing demand and supply in terms of coverage and quality. |

| NO | ASPECTS | DESCRIPTION |
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| | | e. Preliminary description of the level of service to reach.<br>f. Investments and estimated operation and maintenance costs<br>g. Tariffs.<br>h. Preliminary Financial Economic Assessment as PPP.<br>i. Preliminary risk allocation.<br>j. Estimation of the guarantees that might be required.<br>k. Sustain the guarantee payment capacity, if required.<br>l. Advantages to developing the project through a PPP.<br>m. Preliminary estimation of supervision costs<br><br>For co-financed projects:<br><br>n. Declaration of Feasibility, according to regulations in the Public Investment National System<br>o. Information related to items d, e, f, g, h, i, j, k, which is not included in the approved Pre Investment Study.<br><br>Said report is the selection filter and, if feasible as a PPP, it shall be incorporated to the private investment promotion process. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
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| **12.** | **Facilities Available to Support Project Structuring and offer Transaction Advisory** | According to the current PPP legal framework (Legislative Decree 1012), the government may assume commitments to support the financial structuring and bankability of projects. Thus, in the case of co-financed projects through PPP, the government can make “firm commitments” to pay the investor a return for the performance of acts related to project implementation. Those commitments may include:<br><br>a) Periodical fees whose purpose is to compensate for the investment incurred by the private investor, which include the certificates that credit the payment of this installment payment by the Government in a direct, general, unconditional and irrevocable manner. |

| NO | ASPECTS | DESCRIPTION |
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| | | b) Periodical fees whose purpose is to compensate the exploitation and preservation activities incurred by the private investor for rendering the service.<br>c) Both<br><br>In the case of self-sustainable projects, the Government may take commitments on contingent payments in favor of the investor, in compliance with the guarantees that have been granted to the latter in order to improve the risk profile of the project and encourage private participation; (e.g. to guarantee a minimum annual income in order to allow for a reduction in income risks). All commitments assumed by the granting entity are backed by the Government. |
| **13.** | **Role of Local Governments** | Local Governments conduct private investment promotion processes which are within their jurisdiction and area of responsibility. All cofinanced private initiatives are submitted and processed only by PROINVERSION.<br><br>Under this assumption, the powers of the Private Investment Promoting Organism are directly exerted through the local government's agency appointed for said purposes. The top body for these Private Investment Promoting Organisms is the Municipal Council. Both Regional and Local Governments can ask PROINVERSION to conduct private investment promotion processes on their behalf.<br><br>Law N° 28059 (Decentralized Investment Promotion Framework Law) and Legislative Decree N° 1012 (Public-Private Partnerships Framework Law) establish the regulatory Framework so that the Government, in its three levels, may promote investment in a decentralized manner as a tool to achieve a comprehensive, harmonious and sustainable development of each region, in a strategic alliance between regional and local governments, private investment and civil society. |
| **14.** | **Risk Sharing Policies / Practices** | Legislative Decree N° 1012, that approves the Public-Private Partnerships Framework Law for the generation of productive employment and dictates regulations for speeding private investment promotion processes, establishes that in all the stages linked to the provision of public infrastructure and/or rendering of public services under the modality of Public Private Partnerships, five principles should be taken into account: i) Value for Money; ii) Transparency; iii) Competence; iv) Adequate risk allocation and v) Budgetary responsibility.<br><br>The principle of adequate risk allocation establishes that there should be an adequate distribution of risks between the public and private sectors. That is, risks should be allocated to the sector with the greatest capacities to manage them at a lower cost, taking into account public interest and the project's profile. |
| **15.** | **Financing Options Allowed (Financing Mix)** | PPP projects may access financing sources from the financial system such as the capital markets. In this way they may raise funds from local and International banks as well as institutional investors such as pension funds (AFP), among others. |

| NO | ASPECTS | DESCRIPTION |
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| **16.** | **PPP Promotion / Marketing Mechanisms** | PPP projects are mainly promoted through the organization of national and international events (roadshows) where the Private Investment Promotion Agency (PROINVERSION) disseminates its project portfolio, providing information about each project such as the expected investment, PPP modality and estimated bid dates. Additionally, in the Web page of PROINVERSION (www.proinversion.gob.pe) all the existing information about the project is made available to the market. Finally, among assignments given to External Advisors, is the task of project promotion.<br><br>Some specific actions which PROINVERSION performs for the promotion of PPP projects are:<br><br>• Design of the promotion campaign<br>• Permanent updating of the institutional Web page.<br>• Development of printed and audiovisual promotional material about the procedures for PPPs and private initiatives, favorable climate for investment and project portfolio.<br>• Sending e-mail alerts about the progress in each one of the portfolio projects, targeted and individualized.<br>• Organization of and participation in local and international events and organization of in-person or virtual bilateral meetings.<br>• Permanent attention to the investor, in-person and virtually. |
| **17.** | **Monitoring and Evaluation** | PPP contracts include the participation of an entity that supervises the fulfillment of the contractual obligations by the Concessionaire; a function which in certain sectors falls on regulatory organisms and, in others, in entities hired by the granting governmental entity to perform said function. |
| **18.** | **Dispute Resolution Mechanism** | Conflicts and disputes that may arise between the parties about the interpretation, execution, fulfillment and any other aspect related to the existence, validity or resolution of PPP contracts, shall be initially settled by direct dealings between the Parties. For the case of investment disputes that should be settled through International mechanisms of dispute settlement, in the direct dealing stage, there is a special multisectorial commission that will be in charge of conducting it to intend arriving to a friendly solution. According to the provisions set forth in Law N° 28933, said special commission is chaired by the Ministry of Economy and Finance and is also integrated by the Ministry of Foreign Affairs, Ministry of Justice, PROINVERSION and the entity of the sector that is involved in the dispute. In case of disputes different to those regulated by Law N° 28933, there is the possibility of the parties agreeing to the intervention of an “amiable compositeur” or that in contracts it may be considered submitting the dispute prior to arbitration to a “Dispute Resolution Council” with a determined procedure to arrive to a friendly solution of the dispute. However, the procedures for these two possibilities should still be regulated for their best application. |

| NO | ASPECTS | DESCRIPTION |
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| | | In the case of non-technical disputes that have not been settled through direct dealing, they shall be settled by arbitration using national or international dispute settlement mechanisms. We should mention that in PPP contracts we include a certain amount (a threshold that currently oscillates between 10 and 30 million US dollars) from which the parties should send the dispute to the international mechanism of the International Center for Settlement of Investment Disputes (ICSID). Otherwise, the parties should submit the dispute to a local center, such as the Arbitration Center of the Chamber of Commerce of Lima.<br><br>All and each one of the Technical Disputes that cannot be directly settled by the Parties within the term of direct dealing should be submitted to the decision of an expert on the matter. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
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| **19.** | **Land Acquisition** | The concession contract may stipulate that either the investor or the government shall be responsible for having the land necessary for project execution, having, if necessary, to acquire or manage the easement rights and the payment of compensation to the land owners or holders, for which the Peruvian Government may collaborate with the task of owner awareness, in order to have an expedited easement management.<br><br>The investor may request from the Government, the compulsory imposition of easements and the help needed to exercise and use the imposed easements. |
| **20.** | **Foreign ownership shares** | There is no limitation to foreign investment participation in PPP projects. |
| **21.** | **Nature / Scope of PPP Capacity Building Interventions / Programs** | PROINVERSION has, as a component of its work plan, the permanent training of its officers, in programs carried out both internally and abroad. On the other hand, PROINVERSION participates in invitations from regional or local governments in which it is required to expand or deepen the benefits of the PPPs and to enhance the knowledge regarding the mechanism is for its implementation in public infrastructure and/or public services projects. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

We enclose the presentation of the project portfolio from PROINVERSION. In order to access to detailed information on each project, we invite you to visit: http://www.proyectosapp.pe/modulos/JER/PlantillaProyectoEstadoSector.aspx?are=1&prf=2&jer=5892&sec=32

## 15. THE PHILLIPPINES

**Legal and Regulatory Framework**

| NO | ASPECTS | DESCRIPTION |
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| **1.** | **Legal and Regulatory Framework** | 1. Article II, Section 20 of the 1987 Philippine Constitution provides that "the State recognizes the indispensable role of the private sector, encourages private enterprises, and provides incentives to needed investments."<br>2. Republic Act (R.A.) No. 7718 or An Act Amending Certain Sections of R.A. No. 6957, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for other purposes" and its Revised Implementing Rules and Regulations (IRR). – R.A. No. 7718 governs the procedure on how to do PPPs in the Philippines.<br>3. Republic Act No. 8974 or An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes. – R.A. No. 8974 provides for the process on how to acquire ROW for PPP projects.<br>4. Republic Act No. 8975 – An Act to Ensure the Expeditious Implementation and Completion of Government Infrastructure Projects By Prohibiting Lower Courts From Issuing Temporary Restraining Orders. Preliminary Injunctions or Preliminary Mandatory Injunctions, Providing Penalties for Violations Thereof, And For Other Purposes. – R.A. No. 8974 governs the issuance of TROs or injunctions by Courts and the penalty for violation thereof.<br>5. Executive Order (E.O.) No. 78, series of 2012 – Mandating The Inclusion of Provisions On The Use of Alternative Dispute Resolution Mechanisms in All Contracts Involving Public-Private Partnership Projects, Build-Operate and Transfer Projects, Joint Venture Agreements Between The Government and Private Entities and Those Entered Into By Local Government Units. – E.O. No. 78 provides for the inclusion of ADR Mechanisms in all PPP contracts.<br>6. Revised Guidelines and Procedures for Entering into Joint Venture (JV) Agreements Between Government and Private Entities – Revised JV Guidelines provides the process for Government Owned and Controlled Corporations (GOCCs), Government Corporate Entities (GCEs), Government Instrumentalities with Corporate Powers (GICPs), Government Financial Institutions (GFIs), and State Universities and Colleges (SUCs) in entering into JV with the Private Entities.<br>7. Republic Act No. 7160 or the Local Government Code of 1991 – It provides for the corporate power of the Local Government Units to enter into contracts and full autonomy to enable them to attain their fullest development.<br>8. Bangko Sentral ng Pilipinas (BSP) Circular No. 779 or the Single Borrower's Limit (SBL) – SBL increase of 25% for PPP projects is extended up to 2016.<br>9. Creation of a Contingent Liability (CL) Fund. – The CL Fund is already included in the 2015 General Appropriations Act.<br>10. Guidelines for the Appraisal and Approval Procedures in Processing PPP Projects. – It provides for the procedure for appraisal and processing of PPP projects. |

| NO | ASPECTS | DESCRIPTION |
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| | | 11. Guidelines for Debriefing Process of a Disqualified Bidder in PPP Projects – It helps the implementing agencies debrief bidders who submitted prequalification documents in a fair and transparent manner. |
| **2.** | **Involved Government Agencies** | |

| Tasks/Roles | Concerned Government Institutions |
|---|---|
| Contracting Parties/ Implementing Agencies | All concerned departments, bureaus, offices, commissions, authorities, or agencies of the national government, including Government Owned and Controlled Corporations, Government Financial Institutions, State Universities and Colleges, and Local Government Units authorized by law or by their respective charters to undertake Infrastructure or Development project are authorized to enter into contractual arrangements under the Build-Operate and Transfer (BOT) Law and its Revised IRR. |
| Reviewing and Approving Bodies | a. NEDA Board – Approves PPP projects costing more than Php300 million, upon recommendation of ICC and negotiated projects, regardless of amount. The Board is composed of the following:<br>• President as Chairman;<br>• Secretary of Socio-Economic Planning as Vice-Chairman; and<br>• Board members as follows: Executive Secretary; Secretaries of Finance, Trade and Industry, Agriculture, Environment and Natural Resources, Public Works and Highways, Budget and Management, Labor and Employment, and Interior and Local Government.<br>b. Inter-Agency Investment Coordination Committee (ICC) – Undertakes the review and approval of projects requiring ICC clearance and/or NEDA Board approval as a pre-condition for facilitating private sector participation in National Government projects under Republic Act No. 7718, as amended. ICC-CC review and approval covers programs/projects of national line agencies with total cost of Php500 million and above regardless of financing; projects of national line agencies and GOCCs implemented through |

| NO | ASPECTS | DESCRIPTION | |
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| | | | the BOT and its variant schemes, local BOT projects to be implemented by local government units costing above Php200 million.<br>c. Local Development Councils for Local Government Units:<br>• Municipal Development Council – Section 2.6 (b)(i) of the Revised Implementing Rules and Regulations of BOT Law provides that local projects costing up to Php20 million shall be submitted for confirmation to the municipal development council where the municipality is situated.<br>• Provincial Development Council – Section 2.6 (b)(ii) of the Revised IRR of BOT Law provides that local projects costing above Php20 million up to Php50 million shall be submitted for confirmation to the provincial development council where the province is situated.<br>• City Development Project – Section 2.6 (b)(iii) of the Revised IRR of BOT Law provides that local projects costing up to Php50 million shall be submitted for confirmation to the city development council where the city is situated.<br>• Regional Development Council or Regional Development Council for Metropolitan Manila – Section 2.6 (b)(iv) of the Revised IRR of BOT Law provides that local projects costing above Php50 million up to Php200 million shall be submitted for confirmation to the regional development council where the municipal, city or province is situated or the regional development council for metropolitan manila in case the municipality or city is situated therein. |
| | | Coordinating and Monitoring Agency | Public-Private Partnership Center (PPPC):<br>- By virtue of Executive Order No. 81 series of 2010, the PPP Center is mandated to facilitate the implementation of the economy's PPP Programs and Projects. |

| NO | ASPECTS | DESCRIPTION | |
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| | | | - Conducts project facilitation and assistance to implementing agencies;<br>- Provides advisory services, technical assistance, trainings and capacity development to implementing agencies in project preparation and development;<br>- Recommends plans, policies and implementation guidelines related to PPP in consultation with appropriate oversight committees, implementing agencies, and private sectors;<br>- Manages and administers Project Development and Monitoring Facility; and<br>- Monitors and facilitate the implementation of the priority PPP Programs and Projects pursuant to the contractual agreements or schemes authorized under Republic Act No. 7718 and its Revised IRR. |
| | | Other Government Bodies Concerned | a. PPP Governing Board – by virtue of Executive Order No. 1362, the Board has been created to function as the overall policy-making body for all PPP-related matters, including the Project Development and Monitoring Facility (PDMF). It is composed of the following members:<br>• Secretary of Socio-Economic Planning as Chairman;<br>• Secretary of Finance as Vice Chairman;<br>• Members as follows: Secretaries of Budget and Management, Justice, Trade and Industry, Executive Secretary, and Private Sector Co-Chairman of the National Competitiveness Council.<br><br>b. Project Development and Monitoring Facility (PDMF) Committee – By virtue of Executive Order No. 136, PDMF Committee is created to properly administer and manage the PDMF. It is also responsible to formulate, prescribe and recommend policies, procedures and guidelines for the use of the PDMF for the development of PPP projects and recovery of costs charged to the fund. It is also tasked to approve |

| NO | ASPECTS | DESCRIPTION |
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| | | applications for availment. PDMF Committee is composed of the National Economic and Development Authority as Chair, Department of Finance, Department of Budget and Management and the PPP Center. |
| **3.** | **Supporting Agencies** | 1. Department of Environment and Natural Resources – Environmental Management Bureau<br>2. Department of Finance<br>3. Office of the Solicitor General<br>4. Office of the Government Corporate Counsel<br>5. National Economic and Development Authority<br>6. Department of Interior and Local Government<br>7. Commission on Audit<br>8. Board of Investments – Department of Trade and Industry. |

1 Reorganizing and Renaming the Build-Operate and Transfer (BOT) Center to the Public-Private Partnership (PPP) Center of the Philippines and Transferring its Attachment from the Department of Trade and Industry (DTI) to the National Economic and Development Authority (NEDA) and for Other Purposes.

2 Amending Certain Sections of Executive Order No. 8 (S. 2010) which Reorganized and Renamed the BOT Center to the PPP Center of the Philippines and Transferred its Attachment from the DTI to the NEDA, and for Other Purposes.

**Project Structures and Development**

| NO | ASPECTS | DESCRIPTION |
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| **4.** | **Available Sectors** | Under Section 2.2 of the Revised IRR of R.A. 7718, the construction, rehabilitation, improvement, betterment, expansion, modernization, operation, financing and maintenance of the following types of projects which are normally financed and operated by the public sector which will now be wholly or partly financed, constructed and operated by the private sector, including other infrastructure and development projects as may be authorized by the appropriate agencies, may be proposed:<br>a. Highways, including expressway, roads, bridges, interchanges, tunnels, and related facilities;<br>b. Railways or rail-based projects that may or may not be packaged with commercial development opportunities;<br>c. Non-rail based mass transit facilities, navigable inland waterways and related facilities;<br>d. Port infrastructures like piers, wharves, quays, storage, handling, ferry services and related facilities;<br>f. Airports, air navigation, and related facilities; Power generation, transmission, sub-transmission, distribution, and related facilities;<br>g. Telecommunications, backbone network, terrestrial and satellite facilities and related service facilities;<br>h. Information technology (IT) and data base infrastructure, including modernization of IT, geo-spatial resource mapping and cadastral survey for resource accounting and planning;<br>i. Irrigation and related facilities;<br>j. Water supply, sewerage, drainage, and related facilities;<br>k. Education and health infrastructure;<br>l. Land reclamation, dredging and other related development facilities;<br>m. Industrial and tourism estates or townships, including eco-tourism projects such as terrestrial and coastal/marine nature parks, among others and related infrastructure facilities and utilities;<br>n. Government buildings, housing projects;<br>o. Markets, slaughterhouses, and related facilities;<br>p. Warehouses and post-harvest facilities;<br>q. Public fish ports and fishponds, including storage and processing facilities;<br>r. Environmental and solid waste management related facilities such as but not limited to collection equipment, composting plants, landfill and tidal barriers, among others; and<br>e. Climate change mitigation and adaptation infrastructure projects and related facilities. |

| NO | ASPECTS | DESCRIPTION |
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| **5.** | **Eligible Tender Participants / Project Initiator** | Section 1.3 (f) of the Revised IRR of R.A. 7718 provides that "any individual, partnership, corporation or firm, whether local or foreign, including consortia of local, foreign or local and foreign firms, subject to the limitations set in the law, may participate or apply for pre- or simultaneous qualification for projects covered under the provisions of the BOT Law and its Revised IRR." |
| **6.** | **Types of PPP Structures/Contract Types** | 1. Pursuant to Section 1.3 (f) of the Revised IRR of R.A. 7718, the following Contractual Arrangements or schemes, as well as other variations thereof, as may be approved by the President, may be undertaken pursuant to the provisions of the revised IRR of the BOT law:<br>a. Build-and-transfer (BT)<br>b. Build-leas-and-transfer (BLT)<br>c. Build-operate-and-transfer (BOT)<br>d. Build-own-and-operate (BOO)<br>e. Build-transfer-and-operate (BTO)<br>f. Contract-add-and-operate (CAO)<br>g. Develop-operate-and-transfer (DOT)<br>h. Rehabilitate-operate-and-transfer (ROT)<br>i. Rehabilitate-own-and-operate (ROO)<br><br>2. Pursuant to the Revised Guidelines and Procedures for Entering into Joint Venture Agreements Between Government and Private Entities – Revised JV Guidelines provides the process for Government Owned and Controlled Corporations (GOCCs), Government Corporate Entities (GCEs), Government Instrumentalities with Corporate Powers (GICPs), Government Financial Institutions (GFIs), and State Universities and Colleges (SUCs) in entering into Joint Ventures with the Private Entities. |
| **7.** | **Types of Project** | Pursuant to Section 2.3 of the Revised IRR of R.A. 7718, the list of priority projects shall be consistent with the Philippine Development Plan an Provincial Development and Physical Framework. To wit,<br>a. National Priority Projects – Projects that are included in the Public Investment Program and comprehensive and Integrated Infrastructure Program; and<br>b. Local Priority Projects – Projects that are included in the Provincial Development Investment Programs/Local Development Investment Programs. |

| NO | ASPECTS | DESCRIPTION |
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| **8.** | **Project Stages and Implementation for Solicited Proposals** | Project Identification<br>Evaluation/Approval of the<br>Proposal Approval/Review of the<br>Contract<br>Advertisement/Invitation to Pre-Qualify and to<br>Bid Preparation of Pre-qualification (PQ)<br>Documents Pre-qualification (PQ) of Bidders<br>Pre-Bid Conference<br>Bid Submission and Opening of<br>Bids Evaluation of Bids<br>PBAC Recommendation to Award<br>Head of Agency/Local Government Unit (LGU) Decision to<br>Award Issuance of Notice of Award (NOA)<br>Submission of NOA Requirements/Posting/Dissemination of NOA and of Bid<br>Results Notification of Compliance to NOA<br>Execution/Signing of Contract<br>Submission of Original Signed<br>Contract |

| NO | ASPECTS | DESCRIPTION |
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| 9. | **Project Stages and Implementation for Unsolicited Proposals** | Submission of a Complete Unsolicited Proposal<br>Advise whether Proposal is Complete/Incomplete/Acknowledge Receipt of the Proposal Evaluation and Acceptance of Proposal<br>Endorse Proposal to ICC to Determine ROR Evaluation/Approval of the Proposal<br>Advisory to Original Proponent on Commencement/Mechanics of Negotiation Negotiation Period<br>Approval/Review of the Contract<br>Publication of Invitation for Comparative Proposals Pre-bid Conference<br>Submission of Comparative Proposals Right to Match by the Original Proponent PBAC Recommendation to Award<br>Head of Agency/LGU Decision to Award Issuance of Notice of Award (NOA)<br>Submission of NOA Requirements/Posting/Dissemination of NOA and of Bid Results Notification of Compliance to NOA<br>Execution/Signing of Contract<br>Submission of Original Signed Contract |
| 10. | **Mechanisms to Engage Private Sector at Project Development Stages** | Government, through the concerned implementing agencies in coordination with the PPP Center, conduct market sounding activities during project development stage to gain private sector insights in terms of risk sharing and project structuring to ensure that projects are highly bankable and commercially viable. |

| NO | ASPECTS | DESCRIPTION |
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| **11.** | **Project Appraisal and Selection Process** | In the identification, selection, and prioritization of PPP projects, the Multi-Criteria Analysis (MCA) approach is used in determining the potential PPP projects and ensuring generation of a credible list of projects that have a relatively higher potential of being procured using the PPP scheme.<br>The MCA screen also serves as a tool to determine which projects can be undertaken through PPP with some degree of certainty before the implementing agency spends significant resources on their development. |
| | | The process in undertaking the pipeline development using the MCA Screen are briefly described as follows:<br><br>1. The implementing agency shall identify PPP projects from the priority list using the MCA Screen. The PPP Center shall assist the implementing agencies in developing their evaluation criteria and in prescribing the weights for each criterion;<br>2. The projects that passed the MCA Screen shall be prioritize for PPP project preparation whose funding could either be through the Project Development and Monitoring Facility (PDMF) or other sources. The higher the score of the project in the MCA Screen, the higher the chances of being the first to be prioritized for the development of the project.<br>3. The projects shall undergo the Feasibility Stage (FS) 1 or the determination of economic viability. Projects that passed the prescribed economic hurdle rate shall proceed to the next step; and<br>4. The final stage is wherein projects that passed FS 1 shall be subjected to FS 2 or PPP structuring. At the option of the implementing agency, it may apply funding for transaction advisory support under PDMF or through other means. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
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| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Pursuant to Section 7 of Executive Order No. 136, Series of 2013, amending Executive Order No. 8 Series of 2010, provides that, Project Development and Monitoring Facility (PDMF) shall be used for the conduct of business case, pre-feasibility and feasibility studies and tender documents of PPP programs and projects in a timely manner and ensure effective monitoring of PPP project implementation.<br><br>The PDMF is a special fund which shall be used for the procurement of advisory and support services related to the preparation, structuring, procurement, financial close, and monitoring of implementation of PPP projects.<br><br>PDMF scope of services include pre-investment activities of potential PPP projects, including but not<br><br>limited to: Preparation of project pre-feasibility and feasibility studies;<br>Project structuring;<br>Preparation of bid documents and draft<br>contracts; Procurement of advisory and<br>support services; and<br>Assistance in the tendering process including bid evaluation and project award through competitive selection. |
| 13. | **Role of Local Government** | Local government units (LGUs) are responsible for the issuance of the necessary business permits, including renewals thereof as well as collection of local taxes, fees and charges to and from the winning project proponent.<br><br>Section 13.2(d) of the Revised IRR of R.A. 7718 provides that LGUs may provide additional tax incentives, exemptions, or reliefs, subject to the provisions of the Local Government Code of 1991 and other pertinent law. |

| NO | ASPECTS | DESCRIPTION |
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| **14.** | **Risk Sharing Policies/Practices** | Section 13.3 of the Revised IRR of R.A. 7718 provides that "subject to the existing laws, policies, rules and regulations, the Government may provide any form of support or contribution to solicited projects, such as, but not limited, to the following:<br><br>1. Cost Sharing;<br>2. Credit Enhancements;<br>3. Direct Government Subsidy;<br>4. Direct Government Equity;<br>5. Performance Undertaking;<br>6. Legal Assistance; and<br>7. Security Assistance.<br><br>The Agency/LGU may offer any one or more Government Undertakings relative to a project, which shall be pre-cleared in principle, in writing, by the department, bureau, office, commission, authority, agency, GOCC, or LGU or any other government entity that will grant the same as mandated by law; provided that the total government undertakings shall not exceed fifty percent (50%) of the total project cost.<br><br>The government undertakings shall be based on the approved risk allocation matrix which shall be issued by the Approving Body/ICC." |
| **15.** | **Financing Mix Options Allowed** | Viability Gap Funding (VGF) may be provided to solicited concession-based PPP projects which are economically viable but not commercially or financially attractive. It shall be in the form of cash subsidy available to the private sector as a contribution of the Government to the project. The maximum VGF support that the Government can provide to such projects shall be in accordance with existing law. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | **1. Up-to-Date PPP Website**<br><br>PPP Center manages and maintains an up-to-date website. The latest and relevant information on the Program and the status of the various |

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| | | projects in the pipeline are updated in the website<br><br>regularly. Website content include the following:<br><br>a. Pipeline of PPP projects and dedicated pages for each of the projects. These pages contain basic project information and their status. Project information memos and bidding documents are also uploaded.<br>b. PPP project milestones are announced, documented and shared through press releases.<br>c. Progress on the implementation of awarded PPP projects.<br>d. Local and international news coverage of the PPP market in the Philippines is posted on a daily basis.<br>e. Projects that are for bidding are also highlighted informing prospective investors of the various PPP opportunities.<br>f. Legislations, official issuances and policy briefs are shared.<br>g. Manuals are available for download which explains the PPP process and contains templates for implementing agencies.<br>h. PPP Center releases its regular newsletter called the “PPP Talk”<br>i. PPP Center releases Infographics.<br><br>**2. Active Social Media Presence**<br><br>The PPP Center has also maintained its social media presence through Facebook and Twitter. It has tapped the social media to update and engage PPP stakeholder through the Internet. Social media accounts of the Center are updated on a daily basis.<br><br>**3. Established Good Media Relations and Wide Media Coverage**<br><br>The PPP Center conducts the following project marketing and promotion mechanisms to attract potential project proponents/investors: Production of marketing collaterals;<br>Market Sounding<br>Activities; International<br>Briefings;<br>International and Domestic<br>Roadshows; Round Table<br>Discussions;<br>Pre-bid<br>Conferences;<br>Investors<br>Conferences;<br>Briefings for interested private firms; and<br>Attendance to international and domestic seminars, fora, business matching activities or gatherings that may be a venue for |

| NO | ASPECTS | DESCRIPTION |
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| **17.** | **Monitoring and Evaluation** | The PPP Center shall be responsible for the coordination and monitoring of projects implemented under Contractual Arrangements or schemes authorized under the Revised IRR of the Amended BOT Law. Project monitoring will be undertaken to ensure that the project complies with the Revised IRR, including the proponent's required environmental clearances from the Department of Environment and Natural Resources. For this purpose, concerned Agencies/LGUs shall periodically submit to the PPP Center information on the status of projects implemented by them. In addition, all concerned Agencies/LGUs shall submit to the PPP Center a copy of all Unsolicited Proposals that they receive and all other related documents. The PPP Center is also mandated to guide the Agency/LGU in the preparation and development of the project. At the end of every calendar year, PPP Center shall report to the ICC, President, and the Congress on the progress of all projects implemented under the Revised IRR. |
| **18.** | **Dispute Resolution Mechanism** | Pursuant to Section 1 of Executive Order No. 78, "all contracts involving Public-Private Partnership (PPP) projects and/or those entered into under<br>R.A. No. 6957 entitled, "The Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes," as amended by R.A. No. 7718, otherwise known as the "Build-Operate and Transfer (BOT) Law," as well as Joint Venture Agreements (JVAs) between government and private entities issued by the National Economic and Development Authority (NEDA) pursuant to Executive Order No. 423 (s. 2005), shall include provisions on the use of ADR mechanisms, at the option and upon agreement of the parties to said contracts.<br><br>All parties who enter into similar contracts with LGUs are encouraged to stipulate on the use of ADR mechanisms, in accordance with their own JV rules, guidelines or procedures.<br><br>When parties to the abovementioned contracts agree to submit the case for ADR , the use of either domestic or international ADR mechanisms shall be highly encouraged, giving the parties complete freedom to choose which venue and forum shall govern their dispute, as well as the rules or procedures to be followed in resolving the same." |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Pursuant to Section 1 of R.A. No. 8974, the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation.<br><br>Section 3 of the same Act also provides that the government may acquire real property needed as right-of-way, site or location for any national government infrastructure project through donation, negotiated sale, expropriation or any other mode of acquisition as provided by law.<br><br>Section 9 provides that the government through the National Housing Authority, in coordination with the LGUs and implementing agencies concerned, shall establish and develop squatter relocation sites, including the provision of adequate utilities and services, in anticipation of squatters that have to be removed from the right-of-way or site of future infrastructure projects. Whenever applicable, the concerned LGUs shall provide and administer the relocation sites.<br><br>R.A. 8975 was enacted to ensure the expeditious implementation and completion of government infrastructure projects by prohibiting lower courts from issuing temporary restraining orders, preliminary injunctions or preliminary mandatory injunctions and providing penalties for violations thereof.<br><br>Section 1 of said law also declare as its policy that under Article XII, Section 6 of the Constitution, the use of property bears a social function, and all economic agents shall contribute to the common good. Towards this end, the State shall ensure the expeditious and efficient implementation and completion of government infrastructure projects to avoid unnecessary increase in construction, maintenance and/or repair costs and to immediately enjoy the social and economic benefits therefrom. |
| **20.** | **Foreign ownership shares** | Pursuant to Section 5.1 of the Revised IRR of R.A. 7718, any individual, partnership, corporation or firm, whether local or foreign, including consortia of local, foreign or local and foreign firms, subject to the limits herein set, may participate or apply for pre- or simultaneous qualification for projects covered under the provisions of the Act and its Revised IRR.<br><br>Section 5.4 of the Revised IRR of R.A. 7718 also states that: |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | (i) For projects to be implemented under a contractual arrangement which requires a public utility[3] Franchise for its operation, and where the project proponent and Facility Operator are one and the same entity, the prospective Project Proponent must be Filipinos or, if corporations, must be duly registered with the Securities and Exchange Commission (SEC) and owned up to at least sixty percent (60%) by Filipinos, or, if a consortium of local, foreign, or local and foreign firms, Filipinos must have at least sixty percent (60%) interest in said consortium.<br>(ii) For projects to be implemented through a contractual arrangement requiring a public utility Franchise for its operation but where the Project Proponent and Facility Operator may be a two separate and independent entities, the Facility Operator must be a Filipino or, if a Corporation, must be duly registered with the SEC and owned up to at least sixty percent (60%) by Filipinos.<br>(iii) For projects that do not require a public utility Franchise for its operation, the prospective Project Proponent or the Facility Operator may be Filipino or foreign-owned. |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | The PPP Center's Capacity Building Program is a comprehensive training service made available to national government agencies and local government units aimed at building, enhancing, and sustaining their institutional capabilities in all aspects of PPP project development and implementation. The program covers the whole PPP project cycle which includes: project inception, planning and identification, project structuring, review and appraisal, approvals and procurement, project implementation and management, and monitoring and evaluation.<br>The following are the various modules in the Center's Capacity Building<br>Program: Module 1: Understanding PPP for Infrastructure and<br>Development Projects Module 2: PPP Project Development<br>Module 3: Contract Drafting<br>Module 4: Project Approvals<br>Module 5: PPP Procurement<br>Module 6: Contract<br>Negotiation<br>Module 7: Managing the PPP Agreement<br>The PPP Center has also developed manuals for both local government agencies and national line agencies to guide them in undertaking PPPs.<br><br>The PPP Center recently implemented its **LGU Capacity Building Strategy** that will engage the local governments to develop and manage their own PPP projects. The objective is to identify institutional mechanisms and processes that would eventually respond to the local governments' need for assistance on PPP and, in turn, will build a portfolio of LGU PPP projects. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | The LGU Strategy is composed of three strategic components that differ according to projected timelines. Intended for immediate commencement is the LGU Staff Internship Program. Secondly, Partnerships with Local Capacity Building Institutions are intended for execution within the next year. Lastly, the Project Development Facility for LGU PPP Projects is seen to mobilize within the next two to five years.<br>Enhancing the competencies of the Center's technical staff, as well as of other relevant agencies, is another important facet of the PPP capacity building program. Among the initiatives implemented for this component include the **Knowledge Sharing Sessions (KSS) and Learning Sessions**. |

[3] Refers to projects or facilities that provide public services as defined under the Commonwealth Act No. 146 (Public Service Law), as amended, and for which a Franchise is required

## 16. RUSSIA

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 1. | **Legal and Regulatory Framework** | **Federal legislation**<br>Federal Law of the Russian Federation from 21st of July, 2005 № 115-FZ «On concession agreements»<br>Draft law of the Russian Federation «on Public-Private Partnership in Russian Federation», adopted in first reading by the State Duma of the Federal Assembly of Russian Federation<br><br>**Secondary legislation of the Russian Federation on Public-Private Partnership**<br>Russian Federation Government Decree № 300 from 31.03.2015 «About approving of the form of documentation within unsolicited proposals »<br><br>**Laws of Constituent Entities of the Russian Federation on Public-Private Partnership (69 from 85 Regions)**<br>**Secondary legislation of the regions of the Russian Federation** |
| 2. | **Involved Government Agencies** | **Ministry of Economic Development of the Russian Federation - The Department for Investment Policy and PPP Development – Division for Development of PPP - formulation of State policy**<br><br>**Ministry of Finance of the Russian Federation - Department of Budget policy in the sphere of innovations, civil industry, energy, communication, and public-private partnership of the Ministry of Finance of the Russian Federation – PPP projects financing and debt policy**<br><br>**Line Government Agencies - execution of a project in supervise activities**<br>Ministry of Healthcare of the Russian Federation - Department of Public-Private Infrastructure Advisory Facility<br>Ministry of Construction, Housing and Utilities of the Russian Federation<br>Ministry of Industry and Trade of the Russian Federation<br>Ministry of Culture of the Russian Federation<br>Ministry of Transport of the Russian Federation<br>State Company Russian Highways (Avtodor) |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **3.** | **Supporting Agencies** | http://economy.gov.ru/minec/activity/sections/privgovpartnerdev/index<br>http://pppi.ru/<br>http://www.pppcenter.ru/ |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | - Social infrastructure<br>- Transport infrastructure<br>- Energy infrastructure<br>- Utility |
| **5.** | **Eligible Tender Participants / Project Initiator** | Tender Participants - individual entrepreneur a Russian or a foreign legal entity or operating without forming a legal entity under the contract of simple partnership (contract on joint activity) two or more of the specified legal entity or operating without forming a legal entity under the contract of simple partnership (contract on joint activity) two or more of the specified legal entity.<br><br>Project initiator could be the Federal executive authority or executive government body of the constituent entity of the Russian Federation or municipal entity, as represented by the local authority. |
| **6.** | **Types of PPP Structures/ Contract Types** | Federal: BTO<br>Regional: BTO, BOLT, DBFO and other forms of projects under authority of the regional legislation |
| **7.** | **Types of Project** | Projects could be grouped by both sides:<br>Public authority or Private entity<br>Russian and foreign legal entities within Unsolicited proposals |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | Project development<br>Reconciliation of the project with the Executive Authority<br>Project approval by the Highest body of executive power<br>Concession tender<br>Review of applications<br>Signing with the successful tenderer<br>Execution of an agreement |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | 1-30 days - the Competent authority considers the application<br>1-10 days to make an offer on the conclusion of the Concession Agreement by tender<br>1-30 days Negotiations<br>1-30 days Holding of competitive tenders, in case of absence other biddings<br>1-5 days Execution of an agreement<br>Projects are not exist. Coming into effect from the 1s of May, 2015 by the Federal Law of the RF from 21st of July, 2014 № 265-FZ «on Amending the Federal Law on Concession Agreements and Certain Legislative Acts of the Russian Federation» |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | Provide for by Federal Law of the Russian Federation from the 21st of July, 2014 № 265-FZ «on Amending the Federal Law on Concession Agreements and Certain Legislative Acts of the Russian Federation» |
| **11.** | **Project Appraisal and Selection Process** | Development of a project by the line executive agency in association with economical and financial executive authorities. Negotiation of the agreement, including the costs of the parties and tariffs. Holding of competitive tenders. Project must correspond of the long-term development programs. Approved by Highest body of executive power. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Integrated information system of Public-Private Partnership<br>Guidance note: «Recommendations for the implementation of public-private partnership in Federal subjects of the Russian Federation»<br>«Methodological recommendations on the development of the institutional environment for public-private partnership in the subjects of the Russian Federation»<br><br>PPP Standard for the regional authorities |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | http://economy.gov.ru/minec/activity/sections/privgovpartnerdev/index |
| **13.** | **Role of Local Government** | Project party in regional PPP project; formation and training of the PPP project by a competent authority; regional support mechanism, letting agreement |
| **14.** | **Risk Sharing Policies/Practices** | In accordance with agreement for PPP project |
| **15.** | **Financing Mix Options Allowed** | Available form of budget financing of PPP project, include target programs, financing and bond issue |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Russian Public-Private Partnership Week, www.pppi.ru, Road Show of PPP projects |
| **17.** | **Monitoring and Evaluation** | Rating of Regions in Public-Private Partnership<br>Reporting system |
| **18.** | **Dispute Resolution Mechanism** | Under the Civil Code of the Russian Federation, include pre-trial dispute resolution |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Under terms of the concessionary agreement - letting agreement |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **20.** | **Foreign ownership shares** | Provide for by Federal Law of the Russian Federation from 29th April, 2008 № 57-FZ «on the Procedure for Making Foreign Investments in Companies Which Are of Strategic Importance for Ensuring the Country's Defence and State Security»<br><br>subject to the General rules for Russian and Foreign investors |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | Method of the support of the PPP projects by Russian Federation Government Decree № 1044 from 11.10.2014 «On approval the Support Program for investment projects implemented on the territory of the Russian Federation, on the basis of project financing»<br><br>Russian Federation Government Decree № 1016 from the 14th of December, 2010 «About approval of selection rules of investment projects and principals for granting state guarantees of the Russian Federation under credits or the bond issues involved in the implementation of investment projects»<br><br>Russian Federation Government Decree № 1017 from the 14th of December, 2010 «About procedure of granting in 2011 of the state guarantees of the Russian Federation under credits or the bond issues involved legal entities, selected in the manner prescribed by the Government of the Russian Federation on the implementation of investment projects» |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

***Total 595 PPP projects***

***At the stage of initiation 117 PPP projects***

## 17. SINGAPORE

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | There is no law or regulatory framework mandating the use of PPP in Singapore. PPP is seen as another form of procurement approach and agencies have the discretion to use PPP based on the merits of their projects. An implementation guide issued by Ministry of Finance provides broad guidelines on the use of PPP for public projects in Singapore. The Government Procurement Act and Regulations govern the conduct of government procurement activities *in general*. |
| **2.** | **Involved Government Agencies** | Agency embarking on the project. Ministry of Finance / Centre for Public Project Management (CP2M) may be involved for higher value projects. |
| **3.** | **Supporting Agencies** | Not applicable. |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | All sectors can be considered so long as there are clear benefits in tapping private sector expertise in delivering public service and that the government remains accountable for such delivery. |
| **5.** | **Eligible Tender Participants / Project Initiator** | Eligibility criteria are based on specific project needs and are typically tied to the performance of the PPP projects. |
| **6.** | **Types of PPP Structures/ Contract Types** | Different structures can be adopted based on the nature of the PPP project, eg DBFO. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **7.** | **Types of Project** | No specific classification of project types (see response to 4). |
| **8.** | **Project Stages and Implementation for Solicited Proposals** | - Invitation for Expressions of Interest<br>- Prequalification of Bidders<br>- Request for Proposal from selected bidders (Invitation to Tender)<br>- Market Feedback Period<br>- Issue of Final Tender<br>- Closing of Tender<br>- Contract Award / Financial Close |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | Handled on exception basis. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | - Agencies to conduct a pre-procurement briefing before PPP tender<br>- Market sounding sessions to provide potential providers ahead of the procurement<br>- A selective tendering process (pre-qualification) can be used to identify the right PPP provider |
| **11.** | **Project Appraisal and Selection Process** | Evaluation of tender proposals to be conducted using the evaluation model or criteria set forth in the Invitation to Tender (ITT) |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Project management expertise and support from the Centre of Public Project Management and other Government agencies which have embarked on similar PPP projects previously |
| **13.** | **Role of Local Government** | Not applicable |
| **14.** | **Risk Sharing Policies/Practices** | - Risks should be allocated to the party who is best equipped to manage and mitigate them<br>- There should be optimal, not maximum, risk transfer to the PPP provider<br>- The risk allocation must be clearly translated to the PPP contract through the contract terms or the payment mechanism, to effectively realize the benefits of optimal risk management |
| **15.** | **Financing Mix Options Allowed** | Based on project's needs and overall best value proposal, where applicable. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | Upcoming PPP projects are to be included in the semi-annual pre-procurement plan published by Government agencies in GeBiz, the Government's one stop e-procurement portal. |
| **17.** | **Monitoring and Evaluation** | This is conducted at agency level. |
| **18.** | **Dispute Resolution Mechanism** | This should be specified in the PPP contract. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | - |
| **20.** | **Foreign ownership shares** | - |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | - |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

## 18. CHINESE TAIPEI

**Legal and Regulatory Structures**

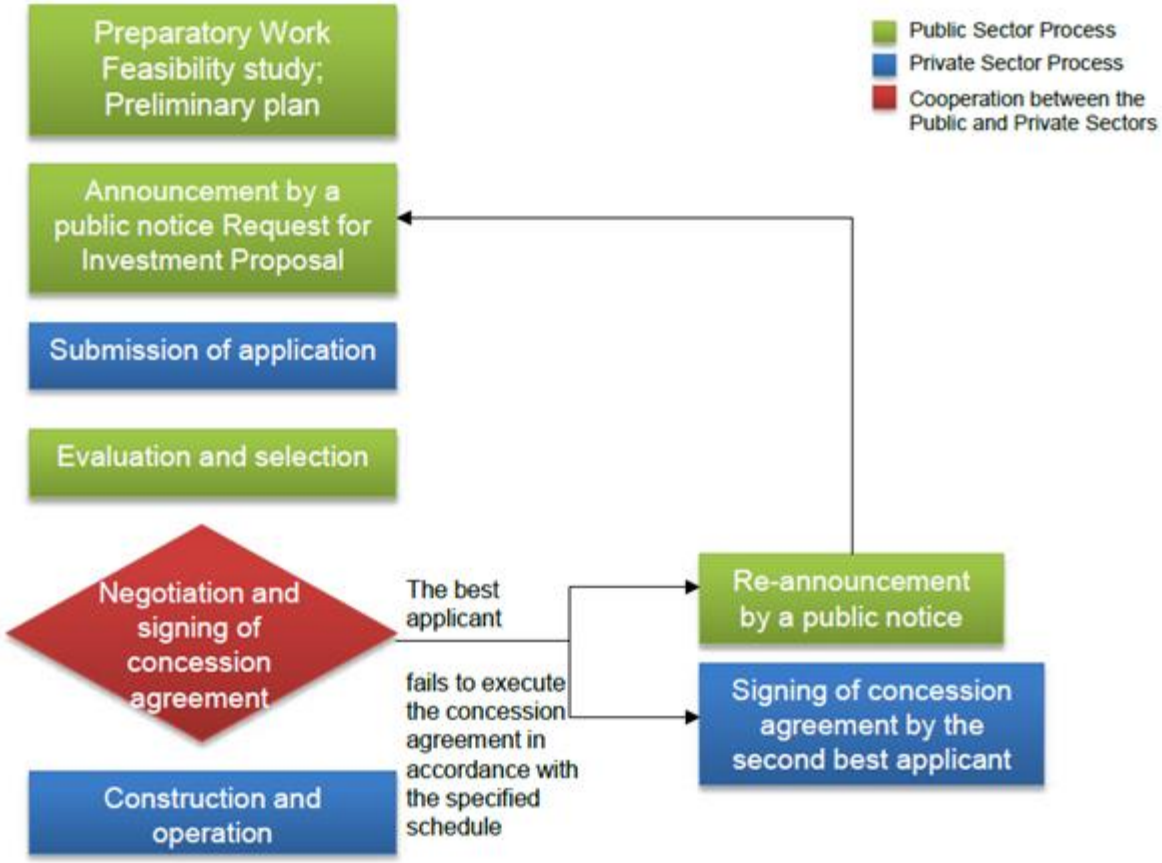
| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | - Act for Promotion of Private Participation in Infrastructrue Projects (hereinafter the PPIP Act)<br>- Enforcement Rules of Act for Promotion of Private Participation in Infrastructure Projects<br>- Regulations for Favorable Rentals Regarding Public Land Lease and Superficies in Infrastructure Projects<br>- Regulations Governing Application for Exemption from Profit-seeking Enterprise Income Tax by Private Institutions Participating in Major Public Infrastructure Projects<br>- Regulations Governing Application of Investment Tax Credits for Private Institutions Participating in Major Public Infrastructure Projects<br>- Regulations Governing Application of Exemotion of Import Commdoity Tax and Payment of Dutis by Installment for Private Participating in Major Public Infrastructure Projects<br>- Regulations Governing Application of Tax Credit to Profit-seeking Enterprise Shareholders of Private Institutions with Respect to Investments Made in Public Infrastructure Projects<br>- Regulations Governing the Organization of the Selection Committee and the Evaluation for Private Participation in Infrastructure Projects<br>- Regulations Governing the Application and Evaluation Procedure for Dispute Resolutions by Private Institutions Participating in Public Infrastructure Projects<br>- Regulations Governing Application for Exemption or Reduction of Land Value Tax, Building Tax, and Deeds Tax for Private Institutions Participating in Major Public Infrastructure Projects<br>- Regulations Governing the Take Over of operations of Private Participating in Sanitation and Medical Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Economic Infrastructure<br>- Regulations Governing the Take Over of operations of Private Participating in Social Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Transportation facilities and Major Facilities for Tour-Site<br>- Regulations Governing the Take Over of operations of Private Participating in Agricultural Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Sport Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Education Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Cultural Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Environmental Pollution Prevention Facilities<br>- Regulations Governing the Take Over of operations of Private Participating in Labor Welfare Facilities |

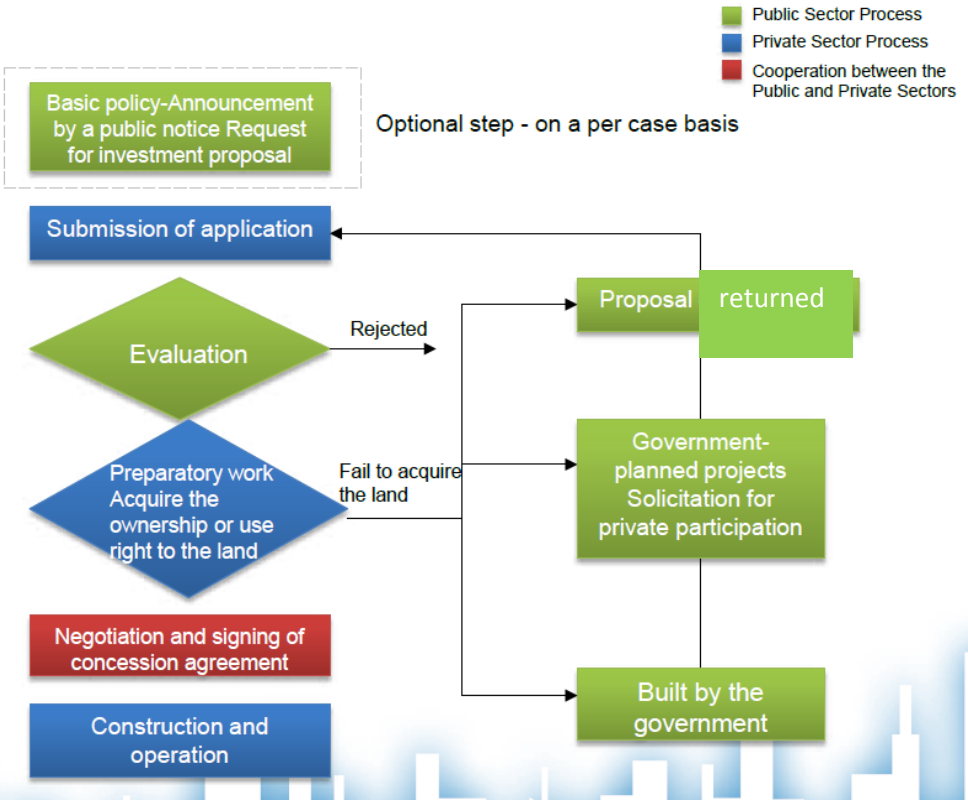
| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 2. | **Involved Government Agencies** | According to the PPIP Act,<br>The Competent authority is the Ministry of Finance which in charge of the establishment of the relevant policies and framework, the promotion of relevant policies; collection and announcement of related statistics; professional training, and also the inter-agency coordination in connection with the operation of the relevant authorities-in-charge, as well as the supervision, evaluation and appeal handling in connection with the relevant infrastructure projects.<br>The authorities-in-chargemean any of the relevant authorities in charge of the relevant matters relating to private participation in the relevant infrastructure projects; they, at the central government level, are the authorities in charge of the relevant industries; at the municipal level, are the municipal governments; and at the county (city) level, are the county (city) governments. |
| 3. | **Supporting Agencies** | When conducting the private participation in an infrastructure project, the authority in charge may retain specialized consultants in financing, engineering, operation and law to assist in relevant matters(such as feasibility study and preliminary plan). |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 4. | **Available Sectors** | 1. Transportation facilities and common conduit;<br>2. Environmental pollution prevention facilities;<br>3. Sewerage, water supply and water conservancy facilities;<br>4. Sanitation and medical facilities;<br>5. Social and labor welfare facilities;<br>6. Cultural and education facilities;<br>7. Major facilities for tour-site;<br>8. Power facilities and public gas and fuel supply facilities;<br>9. Sports facilities;<br>10. Parks facilities;<br>11. Major industrial, commercial and hi-tech facilities;<br>12. Development of new town; And<br>13. Agricultural facilities. |
| 5. | **Eligible Tender Participants / Project Initiator** | There are no specific requirements for the applicant in the Act for PPIP, the authority in charge may depend on the character of the infrastructure project to provide qualification requirements for the applicant. The private institution of PPIP project(contract party) must be a company which established under the Company Law of Chinese Taipei or any private juristic person as approved by the authority in charge at contract signing stage. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **6.** | **Types of PPP Structures/ Contract Types** | According to the PPIP Act, the private institution may participate in an infrastructure project through any of the following means:<br>1. 1.BOT (Build, Operate and Transfer);<br>2. BTO (Build, Transfer and Operate);<br>3. ROT (Rehabilitate, Operate and Transfer);<br>4. OT (Operate and Transfer);<br>5. BOO (Build, Own and Operate); or<br>6. Any other models as may be approved by the competent authority. |
| **7.** | **Types of Project** | Solicited Projects: PPIP projects initiated by the government.<br>Unsolicited Projects: PPIP projects initiated by a business entity and/or a foreign legal entity. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 8. | **Project Stages and Implementation for Solicited Proposals** | (a)Application and Evaluation Procedure of Government-planned Projects   |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| 9. | **Project Stages and Implementation for Unsolicited Proposals** | (b)Application and Evaluation Procedure of Unsolicited Proposals<br>  <br> |
| 10 | **Mechanisms to Engage Private Sector at Project** | Investors may review the feasibility study and preliminary plan of individual PPIP project on the office website of authority in charge before public announcement or attend Investment Solicitation Convention hold by authority in charge. Investors may also get the latest |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Development Stages** | information of PPIP projects through PPIP information system or attend Investment Solicitation Convention organized by competent authority and make suggestions to the authority in charge. |
| **11.** | **Project Appraisal and Selection Process** | The authority in charge shall conduct preliminary evaluation checklist regarding the policy, laws and land acquisition, market and financing of PPIP at the development PPIP stage; for those feasible projects, the authority in charge may, based on the character of the infrastructure project, evaluate the feasibility of private participation regarding the purpose, market, technology, financing, laws, land acquisition and environmental impact of the infrastructure project. If the evaluation result is feasible for private participation, then the authority in charge may conduct preliminary plan. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | 1. PPIP projects are implemented on a financially independent basis. The source of income is the user charges. The private institution is responsible for self-financing; according to the PPIP Act, the authority in charge may coordinate with financial institutions or the special funds to provide medium or long-term loans to the private institution, but the aforesaid authority is under no obligation to provide financing.<br>2. If PPIP projects are evaluated by the Selection Committee that the private institution does not have adequate self-financing ability on a particular infrastructure project even if other encouragement measures under this Act are applicable, the authority in charge may, on the part of the inadequate self-financing portion, subsidize part of the interest accrued from the loan needed by the private institution or, invest in part of the construction.<br>3. The competent authority (the Ministry of Finance) provides one-stop coordination service of PPIP for potential investors in the “Platform for Participation in Infrastructure”. |
| **13.** | **Role of Local Government** | Local government is the authority in charge of individual PPIP projects. |
| **14.** | **Risk Sharing Policies/Practices** | PPIP projects are implemented on a financially independent basis. The private institution is responsible for self-financing and takes the risk of construction and operation. |
| **15.** | **Financing Mix Options Allowed** | The private institution of PPIP projects is responsible for self-financing. The authority in charge may, based upon the financing need for the infrastructure project, coordinate with the financial institutions or special funds to provide medium or long term loans to the private institution. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **16.** | **PPP Promotions/ Marketing Mechanisms** | The competent authority (The Ministry of Finance) has set up the PPIP information system; investors may get the latest information of the PPIP through this system. The competent authority (The Ministry of Finance) also holds the Investment Solicitation Convention and business opportunities seminar to exchange ideas with investors. When necessary, the authority in charge may hold the Investment Solicitation Convention for individual PPIP projects. |
| **17.** | **Monitoring and Evaluation** | - The competent authority (The Ministry of Finance) could monitor the progress of individual projects through PPIP information system before contract signing. It also has the "Platform for Participation in Infrastructure", which could resolve execution problem encountered by individual projects.<br>- To implement performance management, the authority in charge will set up management plan to lay down check items, methods of examination, execution schedule at the operation stage. The authority in charge should take site-visiting tour of the signing PPIP project. If necessary, the competent authority may send official to check on the site-visiting tour of the authority in charge. |
| **18.** | **Dispute Resolution Mechanism** | - Chinese Taipei has the Regulations Governing the Application and Evaluation Procedure for Dispute Resolutions by Private Institutions Participating in Public Infrastructure Projects.<br>- The competent authority (The Ministry of Finance) also establishes Complaint Review Board for PPIP projects, to settle dispute of the application and the evaluation procedures between the applicant and the authority in charge.<br>- After the contract is signed, the dispute will be handled first by the mediation committee, if it is failed, then goes to the arbitration or litigation. The competent authority will not interfere. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | Where the land required for the infrastructure project is government-owned land, the authority in charge may, after completing the allocation process, allow the use of the land by the private institution. Where the land required for the infrastructure project is privately owned, the authority in charge or the private institution shall negotiate with the land owner to purchase the land at fair market value. If an agreement to purchase the land cannot be reached and the land is required for a major infrastructure project planned by the government, the authority in charge may then expropriate such land in accordance with applicable laws. |
| **20.** | **Foreign ownership shares** | There are no specific restrictions on foreign capital investment in the Act for PPIP. With regard to foreign investment in the private institution, the authority in charge may, as it may deem necessary on a case-by-case basis, report to the Executive Yuan to re-set the foreign ownership restriction, without being subject to the existing regulatory restrictions on the foreign ownership as may be imposed under any other laws. |
| **21.** | **Nature/ Scope of PPP Capacity** | The competent authority (The Ministry of Finance) provides customized training courses for different group, such as government, private institution and consultant agencies. These training courses include PPIP laws and regulations, technique (market and |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | **Building Interventions/ Programs** | financing), performance management (operation assessment and dispute coordination). Guidelines and references including PPIP life-cycle standard operation procedure, checklist for important items, tender documents, and references for signing of contract, the function of dispute resolution committee and evaluation of operation. The competent authority (The Ministry of Finance) also provides consulting service and initial assistance for the development of PPIP project to the authority in charge. |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

49 PPIP projects will be announced on 2014, the total investment amount is more than NT$ 190 billion. For more information, please visit PPIP information system (ppp.mof.gov.tw).

## 19. THAILAND

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | - The Constitution of the Kingdom of Thailand<br><br>- The 11th National Economic and Social Development Plan (2012-2016)<br><br>- Private Investments in State Undertakings Act B.E. 2556 (2013) (PISU Act)<br><br>· Strategic Plan on Private Investment in State Undertaking<br>· The Announcement/Notification of the PPP Committee (Subordinate Law)<br>· The Announcement/Notification of the State Enterprise Office Policy (SEPO) (Subordinate Law)<br>- Government Policy (PPP Master Plan)<br><br>- Ministerial Regulation/Policy |
| **2.** | **Involved Government Agencies** | - Project Agencies<br><br>- Responsible Ministries<br><br>- The office of Attorney General : Reviews contract<br><br>- State Enterprise Policy Office, Ministry of Finance: a central PPP Unit |
| **3.** | **Supporting Agencies** | - National Economic and Social Development Board<br><br>- Council of State<br><br>- Bureau of the Budget<br><br>- Comptroller General's Department, Ministry of Finance<br><br>- Public Debt Management Office, Ministry of Finance |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | - List of Sectors will be published in the PPP Master Plan* |
| **5.** | **Eligible Tender Participants / Project Initiator** | For the selected private participants, the project agency must follow the Notification of the Private Investments in State Undertakings Policy Committee Re: Descriptions of Unsuitable Private Entities for Investments in State Undertakings and Unsuitable Persons for Appointment as Consultants B.E. 2557 (2014) |
| **6.** | **Types of PPP Structures/ Contract Types** | The PPP in Thailand has a variety of structure. The most common PPP structures are BOO, BOT and BTO. |
| **7.** | **Types of Project** | Currently restricted to solicited projects initiated by the Local Government/Project Agency. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **8.** | **Project Stages and Implementation for Solicited Proposals** | - Once project study approved, Project agency will prepare and announce the invitation letter for tender (private participation) in the project;<br><br>- Project agency will appoint a Selection Committee for selection process;<br><br>- A private entity is selected by the Selection Committee;<br><br>- The Selection Committee negotiate with the selected private entity;<br><br>- The Selection Committee submit the draft Investment contract which has been negotiated with the private entity for investment to the Attorney-General for review then submit the reviewed draft Investment Contract to the Responsible Minister .<br><br>- After examining the private entity selection result, the reviewed draft Investment Contract and relevant information must submitted to the Council of Minister for the final approval.<br><br>(Info Graphic is attached herewith) |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | N/A |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | - The private sector can engage in project development stage by participation in market sounding conducted by the project agency. |
| **11.** | **Project Appraisal and** | 1. Project agency must submit a project appraisal report containing the details prescribed by Announcement/Notification of the PPP Committee (Ex. Rationale, necessity and benefits of the project, implementation cost, comparison of the cost for value of money, alternative forms of private investment, impact of the project and managing the risks of the project) to the responsible ministry. |

<table>
<tr><th>NO</th><th>ASPECTS</th><th>DESCRIPTION</th></tr>
<tr><td></td><td>Selection Process</td><td>
2. Selection Process:<br><br>
2.1 Project agency will appoint a Selection Committee for selection process. The Selection Committee’s powers and duties are:<br><br>
- To consider the approval of the invitation to tender for private investments, draft TOR and draft investment contract;<br><br>
- To set the bid bond and performance bond;<br><br>
- To negotiate and select the private entity for investment;<br><br>
- To require the project agency or private entity to give an explanation or submit relevant information or documents.<br><br>
2.2 During the Selection Process:
<table>
<tr><th>Project Agency and the Selection Committee are in agreement<br><br>that selection by bidding is inappropriate.</th><th>Project Agency and Selection Committee are in disagreement<br><br>that selection by bidding is inappropriate.</th></tr>
<tr><td>- Submission shall be made to the State Enterprise Policy Office (SEPO)<br><br>for consideration.<br><br>- If SEPO concurs, the matter shall be submitted to the PPP Committee for approval.</td><td>- Submission shall be made to SEPO for consideration.<br><br>- If SEPO is in disagreement that the selection by bidding<br><br>is inappropriate; the matter shall be submitted to the PPP Committee<br><br>for decision.</td></tr>
</table>
</td></tr>
</table>

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | - The PPP Master Plan will provide the national direction toward the private sector's investment in which the government is promoting in the next 5 years*.<br><br>- The Ministry of Finance has established the revolving PPP Fund to support/motivate the PPP projects. Project agency can borrow the money from the Fund to conduct the feasibility study and the project advisory. The Project agency is required to reimburse the money to the Fund through tender document sale fees, investment appraisal fees and investment contract signing fees after the contract has been signed.<br><br>(Info Graphic is attached herewith) |
| **13.** | **Role of Local Government** | - In case that PPP project is initiated by local government, the local government is treated as project agency under the Private Investment in the State Undertakings Act B.E. 2556 (2013). Besides that, some permits or licenses have to be granted by the local government. |
| **14.** | **Risk Sharing Policies/Practices** | - The risk will be allocated between public and private sectors, who is best to handle each risk of the project. The project agency has to determine such risk sharing when conduct a feasibility study. |
| **15.** | **Financing Mix Options Allowed** | There is no threshold for Debt to Equity ratio, however, selection committee can determine the threshold based on project requirement and private participant qualification. |
| **16.** | **PPP Promotions/ Marketing Mechanisms** | After the cabinet approves PPP Master Plan and Project pipelines, SEPO will publish them in the Royal Gazette. |
| **17.** | **Monitoring and Evaluation** | - Once the investment contracts has been signed, the responsible Ministry of the project shall appoint the Supervisory Committee, together with its powers<br><br>and duties which are: |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | - To monitor and supervise the project to ensure the operations are conducted in accordance with the investment contract;<br>- To consider proposing approaches to resolving problems arising from project implementation to the project agency;<br>- To require that project agency or private contractual party to give an explanation or submit relevant documents;<br>- To report operational results, problems and approaches to resolving problems to Responsible Minister for acknowledgment;<br>- To consider amendments to the investment contract. |
| **18.** | **Dispute Resolution Mechanism** | Due to the fact that disputes and conflicts in PPP projects are usually concerned with state power, e.g. those arisen from the PPP contracts in which state power is inherent, thus deemed administrative contract, they fall within the jurisdiction of the administrative court; therefore, generally, they are resolved at the court. (Note that the administrative court's case proceeding employs an inquisitorial system, as opposed to the adversarial system used in other civil courts) Opting for arbitration in PPP projects, practically, still requires streamlined enabling provisions despite attempts to pave way for the use of such mechanism.<br>However, the supervisory committee will be formed to monitor and supervise the project, according to the Private Investment in the State Undertakings Act B.E. 2556. The committee's authority also includes proposing approaches to resolving problems arising from project implementation to the host agency. The committee can be viewed as the regulatory body that can indirectly contribute to dispute resolution, thereby, in a way, serving as a preliminary effort to resolve the dispute before presenting it to the court. |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | - Land acquisition is typically the responsibility/duty of the public sector. |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **20.** | **Foreign ownership shares** | There is no limitation of capital ownership from a foreign investment in PPP projects under the Private Investment in the State Undertakings Act B.E. 2556. (2013) |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | KDI / World Bank / British Embassy / Australia Embassy<br>- to assist/support the PPP Unit by Capacity Building Program<br><br>ADB<br>- to assist/support the PPP Unit by Capacity Building Program<br>- to assist/support PPP project's preparation in order to increase the project's bankability ( Ministry of Transportation/Ministry of Public Health) |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

PPP Master Plan*

## 20. UNITED STATES

PPP arrangements in the United States vary greatly based on the sector, level of government, and type of individual project.

There is currently no single overarching framework for PPP which applies to the United States.

In this case, the data will not be comparable to the template provided for the Guidebook.

For more information, interested investors may contact PPP unit in each state.

## 21. VIET NAM

**Legal and Regulatory Structures**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **1.** | **Legal and Regulatory Framework** | 1. Law on Procurement No. 43/2013/QH13 dated 26 November 2013<br><br>2. Law on Investment No. 59/2005/QH11 dated 29 November 2005<br><br>3. Decree No. 108/2009/ND-CP on investment in the forms of Build-Operate-Transfer (BOT), Build-Transfer-Operate (BTO) and Build-Transfer (BT) contracts<br><br>4. Decree No. 24/2011/ND-CP amending a number of articles of the Decree No. 108/2009/ND-CP on investment in the form of Build-Operate-5. Transfer (BOT), Build-Transfer-Operate (BTO) and Build-Transfer (BT) contracts.<br><br>5. Circular No. 03/2011/TT-BKHDT dated 27 January 2011 guiding a number of provisions of the Government's Decree No. 108/2009/ND-CP.<br><br>6. Decision No. 71/2010/QD-TTg on issuance of regulation on pilot investment using Public-Private Partnership model |
| **2.** | **Involved Government Agencies** | 1. Ministry of Planning and Investment<br><br>2. The Government Office<br><br>3. Ministry of Finance<br><br>4. Ministry of Justice<br><br>5. Ministry of Industry and Commerce<br><br>6. Ministry of Transport<br><br>7. Ministry of Construction |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | 8. The State Bank of Vietnam<br>9. Ministry of Health<br>10. Ministry of Information and Communication<br>11. Ministry of Education and Training<br>12. Ministry of Natural Resources and Environment |
| **3.** | **Supporting Agencies** | PPP Office: the role of PPP Office is a focal point to imlement PPP program in Vietnam which are as follows:<br>1. Consulting over PPP activities within MPI<br>2. Being a permanent body of Interdisciplinary taskforce<br>3. Supporting project establishment and proposal delivered by PPP model; Feasibility study and development of portfolio<br>4. Cooperating in terms of technical support, capacity building and training on PPP<br>5. Supporting in PPP investment promotion<br>6. Receiving , managing and making use of funding concerning PPP project development<br>7. Implementing PPP communication plan<br>8. International cooperation on PPP<br>9. Buiding PPP database system<br>10. Working under Director General of PPA on PPP related activities |

**Projects Structures and Development**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **4.** | **Available Sectors** | 1. Roads, bridges, tunnels, ferry<br>2. Railway, railway bridges, railway tunnels<br>3. Urban transport<br>4. Airports, seaports, river ports<br>5. Fresh water supply system<br>6. Power plant<br>7. Healthcare (hospital)<br>8. Environment (waste treatment plants)<br>9. Other infrastructure development and public services supply projects as decided by the Prime Minister. |
| **5.** | **Eligible Tender Participants / Project Initiator** | 1. An investor being an organization shall be deemed to be eligible when it satisfies the following conditions:<br>a) Having registration for establishment and operation issued by the competent authority of the economy where it is operating;<br>b) It is an independent cost accounting entity;<br>c) It is not in the process of dissolution; not concluded to fall into the state of bankruptcy or to be insolvent as prescribed by law.<br>d) It has registered on the national bidding network system;<br>d) To ensure competitiveness in bid as prescribed in Article 6 of this Law; |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | e) It is not in time banned from bid participation;<br><br>g) Its name is stated in short list for case where the short list has been selected;<br><br>h) It must have a partnership with domestic contractors or use sub-contractors if it is foreign tenderer when participating in international bid in Vietnam, unless domestic contractors have not full capability to participate in any part of bidding package.<br><br>2. An investor being an individual shall be deemed to be eligible when it satisfies the following conditions:<br><br>a) Having full capacity for civil acts pursuant to the law of the economy of which such individual is a citizen;<br><br>b) Having an appropriate professional certificate as prescribed by law;<br><br>c) Having lawful registration for operation as prescribed by law;<br><br>d) Such individual is not being examined for penal liability;<br><br>e) Such individual is not in time banned from bid participation. |
| **6.** | **Types of PPP Structures/ Contract Types** | 1. Build-Operate-Transfer (BOT);<br><br>2. Build-Transfer-Operate (BTO);<br><br>3. Build-Own-Operate (BOO);<br><br>4. Build-Transfer (BT);<br><br>5. Other contract type as prescribed by Law on Investment. |

<table>
<tr><th>NO</th><th>ASPECTS</th><th>DESCRIPTION</th></tr>
<tr><td>7.</td><td>Types of Project</td><td>1. Solicited projects: PPP Projects initiated by the Authorized State Agency:<br><br>2. Unsolicited Projects: PPP Projects initiated by the investor<br><br>The project proposal by the investor shall be sent to the Authorized state agency with state management function corresponding to the implementation and area and field of the project, with a carbon copy to Ministry of Planning and Investment for monitoring.<br><br>Other later procedures are the same as solicited projects.</td></tr>
<tr><td>8.</td><td>Project Stages and Implementation for Solicited Proposals</td><td>
<table>
<tr><td colspan="2">Stage I: Project Preparation</td><td colspan="2">Stage II: Selection of Investor and signing of project contracts</td><td colspan="3">Stage III: Issuance of investment certificates and implementation of projects</td><td>Stage IV: Final account works and hand-over of project facilities</td></tr>
<tr><td>Selection of project proposal</td><td>Formulation, evaluation and aprroval of Feasibility study report</td><td>Tendering for selection of an investor</td><td>Negotiation, finalization and signing of project contracts</td><td>Ministry of Planning and Investment shall issue the investment certificates for pilot PPP projects.</td><td>The investor shall establish a project enterprise to implement the project ; tender to select contractors.</td><td>Report on project implementation</td><td>The investor shall prepare a file on final account on investment capital within 06 months from the date of completion of the project works.</td></tr>
</table>
</td></tr>
</table>

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | Output:<br>- Project portfolio<br>- Approved Feasibility Study Report<br>- Approval of the Prime Minister on the state participation portion, investment guarantee mechanism and other matter beyond the authority of the Authorized state body and localities.<br><br>Output:<br>- Result of investor selection<br>- The authorized state agency initials the project contract with the selected investor.<br><br>Output:<br>- Official contract with selected investor after the issuance of investment certificate<br>- Investment certificates<br>- Establishment of project enterprise<br>- Result of contractor selection conducted by investors to the Authorized state agency<br>- Report on project implementation submitted to the authorized state agency in January and July. |
| **9.** | **Project Stages and Implementation for Unsolicited Proposals** | The project proposal by the investor shall be sent to the Authorized state agency with state management function corresponding to the implementation and area and field of the project, with a carbon copy to Ministry of Planning and Investment for monitoring.<br><br>Other later procedures are the same as solicited projects. |
| **10.** | **Mechanisms to Engage Private Sector at Project Development Stages** | |
| **11.** | **Project Appraisal and Selection Process** | Public-private partnership project shall meet one of the following criteria:<br><br>1. A project being of great significance, large scale, and urgent demand to the need of economic development as stipulated under Decision No. 412/QD-TTg dated 11 April 2007 of the Prime Minister |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | 2. A project which is capable of repaying investment capital to the investor with the revenue reasonably collected from consumers.<br><br>3. A project which is capable of exploiting advantages in regard of technological and management and operation experiences, and effectively mobilizing financial capacity of the private sector.<br><br>4. Other criteria as decided by the Prime Minister. |

**Project Support, Financing, and Management**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **12.** | **Facilities Available to Facilitate Project Structuring and Transaction Advisory** | Government agencies will give priority to projects developed under public-private partnership schemes, in the assessment and procedures regarding compliance with the requirements of the legal provisions and Master Plan.<br><br>*Article 6 of Decree No. 108*: For Projects to be implemented to satisfy urgent needs on the use of infrastructure facilities and other important projects, the Ministries, Branches and Provincial People's Committees shall consider and decide on the use of the State budget fund to build supportive works, organize compensation and land clearance, resettlement or carry out other things for supporting the Project implementation.<br><br>**Government Support**<br><br>- Tax incentives: corporate income tax, import tax<br>- Land use fees and land rental,<br>- Land acquisition,<br>- Project preparation facilitated by PDF (Project Development Facilities funded by ADB and AFD)<br>- Asset contribution?<br>- Fiscal contribution in financial forms, and/or<br>- Other forms<br>In accordance with a number of specified laws |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| | | Government support shall be included in the procurement document.<br><br>Government support in the form of fiscal contribution shall be listed in the state budget and/or regional government budget.<br><br>**Government Guarantee**<br><br>- Performance guarantee<br>- Minimum Revenue Guarantee<br>- Availability payment<br>- Subsidies<br>- Guarantees for obligations of investors, Project Enterprises and other enterprises<br>- Right to mortage property<br>- Right to buy foreign currency<br>Assurance of provision of public services |
| **13.** | **Role of Local Government** | - To implement the Project Contract<br>- To authorize its subsidiaries to enter into and perform Group B and Group C Project Contracts<br>To consider and decide on the use of the State budget fund to build supportive works, organize compensation and land clearance, resettlement or carry out other things for supporting the Project implementation |
| **14.** | **Risk Sharing Policies/Practices** | - The risks should be allocated to the agent who is best able to bear them or handle them and which, therefore, will reduce their costs.<br>- Regarding risk allocation, there will be specifications in different levels.<br>  o In new PPP Decree (drafting), there are some principles for risk allocation. Moreover, provision of feasibility study also require analysis for risk allocation.<br>  o In circulars (following the New PPP Decree), specific key risks will be identified.<br>*Appendix enclosed to circular on FS wil then provide sample matrix for sectors of typical risks* |
| **15.** | **Financing Mix Options Allowed** | - |

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **16.** | **PPP Promotions/ Marketing Mechanisms** | - |
| **17.** | **Monitoring and Evaluation** | - |
| **18.** | **Dispute Resolution Mechanism** | - |

**Related Policies**

| NO | ASPECTS | DESCRIPTION |
|---|---|---|
| **19.** | **Land Acquisition** | - |
| **20.** | **Foreign ownership shares** | - |
| **21.** | **Nature/ Scope of PPP Capacity Building Interventions/ Programs** | - |

**List of Ready-to-Offer Projects**

**22.** *A list of projects ready for financing and implementation.*

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