



सत्यमेव जयते

Government of India
Ministry of Finance
Department of Economic Affairs



Public Private Partnerships

Creating an Enabling Environment for State Projects



INFRASTRUCTURE
Building for Growth



Government of India
Ministry of Finance
Department of Economic Affairs

Public Private Partnerships

Creating an Enabling Environment for State Projects

2008

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Overview

Provision of quality infrastructure is a pre-requisite for the economy to achieve a higher growth trajectory on a sustained basis. To achieve a new vision of growth, which is broad based and inclusive, Planning Commission has estimated that the total investment in infrastructure has to increase from 4.5 percent to around 8 percent of the GDP in the 11th Five Year Plan. During the Eleventh Five Year Plan (2007-2012), projected investments of over US\$ 494 billion are envisaged in the infrastructure sector-defined broadly to include road, rail, air and water transport, electric power, telecommunications, water supply and irrigation-which is equivalent to Rs. 20,27,169 crore at 2006-07 prices.

The investment requirements are enormous and are not likely to be met from the public sector alone. Attracting private capital in this critical sector is recognised as a key strategy to meet the resource deficit. Consequently, Public Private Partnership (PPPs) are being encouraged as the preferred mode for execution and operation of infrastructure projects. PPPs offer a number of advantages in terms of enhancing the ability to take a larger shelf of infrastructure investments, introducing specialised expertise and cost reducing technology as well as bring in efficiencies in operation and maintenance.

The overall response to the call to promote PPP as the preferred mode for the implementation of infrastructure is encouraging. The progress is, however, slow and has been limited to a few sectors. Investment through the PPP mode needs to increase substantially in the States and across sectors.

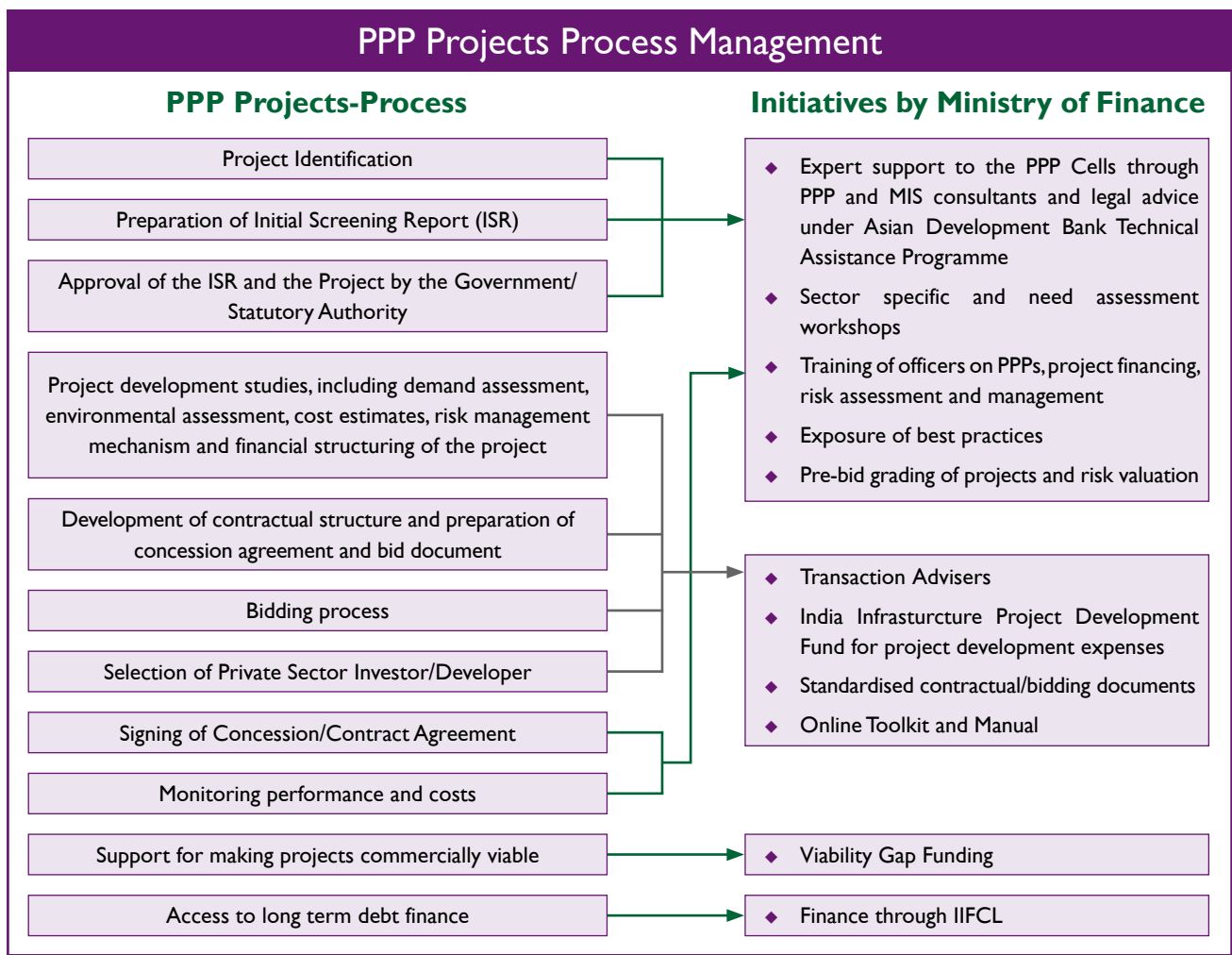
While encouraging PPPs, six constraints have been identified:

- ★ Weakness in enabling policy and regulatory framework in most of the infrastructure sectors continues to be a constraint. There is need to make sector policies and regulations PPP friendly. A large number of these projects are in the States and without the active participation of the States it would not be possible to achieve desired results.
- ★ The market presently does not have adequate instruments and capacity to meet the long-term equity and debt financing needed by infrastructure projects.

Public Private Partnership (PPPs) are being encouraged as the preferred mode for execution and operation of infrastructure projects

- ★ There is also lack of capacity in public institutions and officials to manage the PPP process. Since these projects involve long term contracts covering the life cycle of the infrastructure asset being created, it is necessary to manage this process to maximise returns to all the stakeholders.
- ★ There is a lack of shelf of credible, bankable infrastructure projects, which could be offered for financing to the private sector. Though initiatives have been taken, both by Central Ministries as well as the States', to develop PPP projects these tend to be limited to a few sectors and have demonstrated a marked lack of consistency.
- ★ There is a lack of capacity in the private sector to fully meet the challenge of investing in a very large number of projects as diverse as solid waste management to terminals in ports, modernization of new airports, building power generating plants or transmission systems and convention centers and also in the form of adequate, qualified and trained manpower for such projects.
- ★ Inadequate advocacy to create greater acceptance of PPPs by the stakeholders.

To address these constraints, several initiatives have been taken by Government of India to create an enabling framework for PPPs by addressing issues relating to policy and regulatory environment. Progressively more sectors



have been opened to private and foreign investment, levy of user charges is being promoted, regulatory institutions are being set up and strengthened and fiscal incentives are given to infrastructure projects. Standardised contractual documents such as sector specific Model Concession Agreements, which will lay down the standard terms relating to allocation of risks, contingent liabilities and guarantees as well as service quality and performance standards, and standardised bidding documents such as Model Request for Qualifications and Model Request for Proposals are being prepared and notified. Approval mechanism for PPPs in the Central sector has been streamlined through setting up of Public Private Partnership Appraisal Committee (PPPAC); and www.pppinindia.com, a website exclusively devoted to PPPs, has been launched to serve as a virtual market place for PPP projects. An online database on PPP projects in the country has been developed to provide comprehensive information on the status of infrastructure sector PPPs.

To address the financing needs of these projects, various steps have been taken like setting up of India Infrastructure Finance Company Limited (IIFCL) to provide long tenor debt to infrastructure projects; and launching of a Scheme for Financial Support to PPPs in Infrastructure to provide Viability Gap Funding (VGF) to PPP projects. Multilateral agencies such as Asian Development Bank have been permitted to raise Rupee bonds and carry out currency swaps to provide long term debt to PPP projects. Setting up of dedicated infrastructure funds are also being encouraged to increase the flow of equity investments. The 'India Infrastructure Finance Initiative' facilitated by Ministry of Finance, is one such collaborative effort to deploy approximately US\$ 5 billion in capital for infrastructure projects in India. The Fund is structured as a Venture Capital Fund, with about US\$ 2 billion in equity capital and US\$ 3 billion in long term debt financing with maturities exceeding ten years.

Initial steps have been taken to use a part of Foreign Exchange Reserves for building Infrastructure. IIFCL has set up an offshore SPV to utilize part of forex reserves for infrastructure development. The opportunities for private investment in infrastructure projects are immense. Government of India now allows FDI in most infrastructure sectors to the extent of 100 percent. The time is ripe for the foreign strategic investors to begin to taking greater interest in project development and management activity in India.

To meet the capacity building requirements of the public institutions and officials for preparing a pipeline of credible, bankable projects that can be offered to the private sector through competitive bidding process as well as to manage the PPP process, State Governments and Central Ministries are being provided with technical assistance in the form of in-house PPP, financial/risk experts, MIS experts and access to a Panel of legal firms. Other measures include assisting the State Governments and Central Ministries in hiring consultants through a Panel of Transaction Advisers, preparation of a manual on PPPs to guide the users and undertake training programmes for public officials on PPPs, project financing, risk assessment and exposure to pre-bid grading of projects. To intensify and deepen the capacity building of public functionaries at the State and municipal level, a curriculum for training at State Administrative Institutes and a 'Training of Trainers' programme are being developed. These initiatives are being supported by TAs from Asian Development Bank and World Bank. As the reach of PPP increases across the sectors, the capacity of the private sector to manage these projects over their entire life cycle of 20 to 30 years would

To address the identified constraints, several initiatives have been taken by Government of India to create an enabling framework for PPPs

The task of mainstreaming PPPs in infrastructure is humongous and would require continuous response to the changing aspirations of the people and pressures of a high performing economy

also have to be enhanced. The capacity of the private sector as developer-investors requires strengthening. In addition, steps need to be taken to provide adequate manpower in different sectors with appropriate skill sets. Government of India has announced National Skill Development Mission and National Skill Development Corporation has been established in the PPP mode to scale up skill development activity in the country.

While quality advisory services are fundamental to procuring affordable, value-for-money PPPs, the costs of procuring PPPs, and particularly the costs of Transaction Advisers, are significant. For providing financial support for quality project development activities to the States and the Central Ministries the Scheme and Guidelines for India Infrastructure Project Development Fund (IIPDF) Scheme have been notified.

To build a virtual market place for the PPP stakeholders, DEA has created a PPP website that is a one stop site for all information relating to PPP initiatives in India. It carries information relating to PPP programmes in the States and Central Ministries. The site carries a link to database on PPP projects in India as well as all policy issues on PPP projects.

These interventions are the beginning. The task of mainstreaming PPPs in infrastructure is humongous and would require continuous and rapid response to the changing aspirations of the people and pressures of a high performing economy.

We would work closely with all the stake-holders, including the State Governments to expand the horizon of PPPs in infrastructure development of the country.

Scheme for Financial Support to Public Private Partnerships in Infrastructure

Viability Gap Funding (VGF) Scheme

The Viability Gap Funding Scheme of the Government of India provides financial support in the form of grants, one time or deferred, to infrastructure projects undertaken through public private partnerships with a view to make them commercially viable. The Scheme is administered by the Ministry of Finance.

Eligibility

The PPP projects may be posed by the Central Ministries, State Governments or statutory authorities (like Municipal Authorities and Councils) which own the underlying assets. The project should meet the following criteria:

- ★ The PPP project should be implemented, i.e. developed, financed, constructed, maintained and operated for the project term by a private sector company to be selected by the Government or a statutory entity through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of viability gap funding required by the private sector company for implementing the project where all other parameters are comparable.
- ★ The PPP project should be from one of the following sectors:
 - ◆ Roads and bridges, railways,¹ seaports, airports, inland waterways
 - ◆ Power
 - ◆ Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas
 - ◆ Infrastructure projects in Special Economic Zones
 - ◆ International convention centers and other tourism infrastructure projects

Provided that the Empowered Committee may, with approval of the Finance Minister, add or delete sectors/sub-sectors from the aforesaid list.

¹ Railway projects currently are not amenable to operation by a private sector company, but this eligibility criterion may be relaxed

The PPP project should be financed, constructed, maintained and operated by a private sector company to be selected by Government through a transparent and open competitive bidding process

Viability Gap Funding under the Scheme is normally in the form of a capital grant at the stage of project construction

- ★ The project should provide a service against payment of a pre-determined tariff or user charge.
- ★ The concerned Government/statutory entity should certify with reasons the following:
 - ◆ The tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP project
 - ◆ The project term cannot be increased for reducing the viability gap
 - ◆ The capital costs are reasonable and are based on standards and specifications normally applicable to such projects where the capital cost cannot be further restricted for reducing the viability gap
- ★ This Scheme will apply only if the contract/concession is awarded in favour of a private sector company in which 51 percent or more of the subscribed and paid up equity is owned and controlled by a private entity.
- ★ The Sponsoring Authority of a PPP project may, in case a doubt exists regarding admissibility of the project under the Scheme, submit the project concept to the Department of Economic Affairs in the prescribed proforma. The Department of Economic Affairs would indicate to the Project Authority within seven working days of the receipt of the proforma whether it could be posed for consideration of the Empowered Institution.

Government Support

- ★ The total viability gap funding under the Scheme shall not exceed twenty percent of the total project cost. The Government or statutory entity that owns the project may, if it so decides, provide additional grants out of its budget up to further twenty percent of the total project cost.
- ★ Viability gap funding under the Scheme is normally in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance can be considered by Empowered Committee along with approval of Finance Minister on a case by case basis.

Approval Process

- ★ The proposal should be sent (in six copies, both in hard and soft form) to the PPP Cell of the Department of Economic Affairs in the prescribed format. The proposal should include copies of all project agreements and the project report.

Viability Gap Funding	Sanctioning Authority
Upto Rs. 100 crore	Empowered Institution (see Box)
More than Rs. 100 crore up to Rs. 200 crore	Empowered Committee (See Box)
More than Rs. 200 crore	Empowered Committee with approval of the Finance Minister

- ★ The proposal will be circulated by the PPP Cell to all members of the Empowered Institution for their comments. All comments received within four weeks shall be forwarded by the PPP Cell to the concerned Administrative Ministry, State Government or statutory authority, as the case may be, for submitting a written response to each of the comments.

In case the project is based on a model concession agreement, the comments will be furnished within two weeks.

- ★ The proposal, along with the project report, concession agreement and supporting agreements/documents, together with the comments of the respective Ministries and the response thereto, will be submitted by the PPP Cell to the Empowered Institution for consideration and 'in principle' approval. While submitting the proposal to the Empowered Institution, the PPP Cell will indicate whether the proposal conforms to the mandatory requirements of the Scheme. Deficiencies, if any, will be indicated in the note of PPP Cell.
- ★ The Empowered Institution will either approve the proposal in principle (with or without modifications) or advise the concerned Ministry, State Government or Statutory Authority, as the case may be, to provide additional clarifications/information or to make necessary changes for further consideration of the Empowered Institution.
- ★ Approval under this Scheme will be for the purposes of this Scheme only. All other statutory, financial or administrative approvals shall be obtained as applicable. For projects owned by the Central Government or its statutory entities, approval of PPPAC shall also be obtained in accordance with the guidelines issued by the Department of Economic Affairs. However, these approvals may be obtained simultaneously in order to save on time.

Appraisal and Monitoring by Lead Financial Institution

- ★ The PPP project shall be awarded within four months from the date on which eligibility of the project is conveyed by the Empowered Institution to the concerned Government/statutory entity. The Empowered Institution may extend this period if an application is made by the concerned entity.
- ★ Appraisal of the project will be carried out by the lead financial institution within three

Sanctioning Authorities

Cabinet Committee on Economic Affairs in its meeting of July 25, 2005 approved the Scheme for Support to Public Private Partnerships in Infrastructure. In pursuance of the decision of the Cabinet, Empowered Committee and Empowered Institution have been constituted for approving financial assistance to such projects which satisfy all the eligibility criteria indicated in the Scheme.

The composition of the Empowered Committee is as follows:

- i. Secretary (Economic Affairs)
- ii. Secretary (Planning Commission)
- iii. Secretary (Expenditure)
- iv. Secretary of the line Ministry dealing with the subject

The Empowered Committee will:

- a. Sanction viability gap funding up to Rs. 200 crore (Rupees two hundred crore) for each project subject to the budgetary ceilings indicated by the Finance Ministry. Amounts exceeding Rs. 200 crore may be sanctioned by the Empowered Committee with the approval of Finance Minister.
- b. Determine the appropriate formula that balances needs across sectors in a manner that broad bases the sectoral coverage and avoids pre-empting of funds by a few large projects.
- c. Determine the inter-se allocation between any on-going Plan Scheme providing viability gap funding and this Scheme.
- d. Provide clarifications or instructions relating to eligibility of a project for such support as and when requested by Empowered Institution.

The Composition of the Empowered Institution is as follows:

- i. Additional Secretary (Economic Affairs)
- ii. Additional Secretary (Expenditure)
- iii. Representative of Planning Commission not below the rank of Joint Secretary
- iv. Joint Secretary in the line Ministry dealing with the subject
- v. Joint Secretary (DEA)-Member Secretary

The Empowered Institution will:

- a. Sanction projects for viability gap funding upto Rs. 100 crore (Rupees one hundred crore) for each eligible project subject to the budgetary ceiling indicated by the Finance Ministry.
- b. Consider other proposals and place them before the Empowered Committee.

The Grant will be disbursed only after the private sector company has subscribed and expended its equity contribution required for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter

months from the date of bid award and presented for consideration and approval of the Empowered Institution.

- ★ The lead financial institution will be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels particularly for the purpose of disbursement of viability gap funding.

Disbursement of Grant

- ★ The Empowered Institution, the lead financial institution and the private sector company shall enter into a tripartite agreement for the purposes of this Scheme.
- ★ The Empowered Institution will release the grant to the lead financial institution as and when due.
- ★ The Grant will be disbursed only after the private sector company has subscribed and expended its equity contribution required for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter.

The 'Scheme for Financial Support to Public Private Partnerships in Infrastructure' has been notified by Ministry of Finance, Department of Economic Affairs vide OM No. 1/5/2005-PPP dated January 12, 2006.

For details please refer to www.pppinindia.com

Scheme for Financing Viable Infrastructure Projects through Special Purpose Vehicle:

India Infrastructure Finance Company Limited (IIFCL)

India Infrastructure Finance Company Limited (IIFCL) has been set-up with the specific mandate to play a catalytic role in the infrastructure sector by providing long-term debt for financing infrastructure projects in India. IIFCL raises funds both from the domestic as well as external markets on the strength of government guarantees. An off shore SPV, Indian Infrastructure Finance Company (UK) Limited has been set up to utilise part of foreign exchange reserves for infrastructure development

Eligibility

- ★ IIFCL would finance only commercially viable projects, including those PPP projects that will become viable after receiving Viability Gap Funding.
- ★ The project should be implemented i.e. developed, financed and operated for the project term by a public sector company, a private sector company selected under a PPP initiative or a private sector company.
- ★ In case of railway projects, that are not amenable to operation by a private sector company, the Empowered Committee may relax the eligibility criterion relating to operation by such company.
- ★ The projects should be from one of the following sectors:
 - ◆ Roads and bridges, railways, seaports, airports, inland waterways
 - ◆ Power
 - ◆ Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas
 - ◆ Gas pipelines
 - ◆ Infrastructure projects in Special Economic Zones
 - ◆ International convention centers and other tourism infrastructure projects
- ★ The projects are to be implemented through a project company set up on a non recourse basis.
- ★ PPP projects based on standardized/model documentation duly approved by respective government are preferred. Stand alone documents would be subjected to detailed scrutiny by the IIFCL.

Prior to inviting offers through open competitive bid, the concerned sponsoring entity may seek 'in principle approval' for financial assistance under the Scheme. Actual lending by IIFCL, however, is governed by appraisal by lead bank before financial closure of project

The Grant will be disbursed only after the private sector company has subscribed and expended its equity contribution required for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter

- ★ Prior to inviting offers through open competitive bid, the concerned sponsoring entity may seek 'in principle' approval for financial assistance under the Scheme. Actual lending by IIFCL, however, is governed by appraisal by lead bank before financial closure of project.

Appraisal & Monitoring by Lead Bank

The lead bank shall present its appraisal of the project for consideration of IIFCL, which will form the basis for approval of funding. An independent appraisal by IIFCL will not normally be required.

The lead bank shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels especially with respect to disbursement of IIFCL funds. It has to provide periodic progress reports in form and at such times as maybe prescribed by IIFCL.

Lending Terms

- ★ IIFCL will fund viable infrastructure projects through long term debt, refinance to banks and financial institutions for loans granted by them, with tenor exceeding 10 years, or any other mode approved by the Government.
- ★ Project company will have the right to choose any of the modes of lending as above.
- ★ The terms at which the project company can access long term debt will not be inferior to the terms at which refinanced debt is available to the project company.
- ★ Total lending by IIFCL will not to exceed 20 percent of total project cost. Loans will be disbursed in proportion to debt disbursements from financial institutions.
- ★ Rate of interest charged by IIFCL will be such as to cover funding costs including administrative costs and guarantee fees, if any.
- ★ IIFCL will release funds to lead bank as and when due. Lead bank will make disbursements on behalf of IIFCL and subsequently seek reimbursement from IIFCL.
- ★ Recovery of loans advanced by IIFCL will be responsibility of lead bank. Recovery of IIFCL loans will be at the same level as project debt till 80 percent of project debt has been recovered. Thereafter lead bank will assume payment risk as guarantors of IIFCL loan.
- ★ Charge on project assets by IIFCL loan shall be equal with project debt and will continue beyond tenure of project debt till such time as principal lent by IIFCL together with interest and other charges remain outstanding.
- ★ The IIFCL, the lead bank and the project company shall enter into tripartite agreement for the purposes of the Scheme.

The 'Scheme for Financing Viable Infrastructure Projects through Special Purpose Vehicle called the India Infrastructure Finance Company Limited' has been notified by Department of Economic Affairs, Ministry of Finance vide OM No. 10/12/2005-INF dated January 4, 2006.

For details please refer to www.pppinindia.com

Mainstreaming Public Private Partnerships at State Level

Recognising that strengthening the capacities of different levels of government to conceptualise, structure and manage PPPs² will lead to more and better PPPs, Department of Economic Affairs is facilitating mainstreaming Public Private Partnerships through Technical Assistance from Asian Development Bank. The primary objective is effective institutionalization of the PPP cells to deliver their mandate through provision of 'in-house' consultancy services to each of the selected entities at the Center³ and State level.

Technical Assistance

The selected entities will be provided assistance for a period of three years in the form of:

- ★ One PPP Expert on an individual basis focusing on project financial analysis and risk management.
- ★ One Management Information Systems Expert on an individual basis focusing on information management.
- ★ A Panel of experts on retainer basis (expected input: intermittent over the year but approximately 6-7 months throughout the year) to provide legal expertise on PPPs.

Eligibility

- ★ The States wishing to avail of the Technical Assistance are required to enter into an MOU with DEA detailing steps that would be taken to promote PPPs in the State.
- ★ The MOU requires the State Government to:
 - ◆ Set up a PPP Cell as the nodal agency for processing all PPP projects in the State with a designated PPP Nodal Officer and defined scope of work.

Institutionalization of PPP skills
Refining the PPP policy and regulatory framework
Meeting compliance/public safety norms
Improving MIS
Improving bidding documents and procedures
Determining risk sharing
Conducting value-added research/analysis
Determining adequate monitoring arrangements

² 'India: Building Capacities for PPPs', The World Bank, 2006.

³ Through the TA programme on 'Mainstreaming PPPs at Central Infrastructure Ministries'.

The states commit to establish such policies and regulatory and governance frameworks in the identified infrastructure sectors to enable a transparent and effective private sector participation

- ◆ Develop a robust shelf of projects amenable for PPPs and adhere to the following set of targets on the level of PPPs in the State:
 - During 2007-08 bid out at least 3 projects with a total cost of Rs. 750 crores or more in atleast two sectors
 - During 2008-09 bid out at least 5 projects with a total cost of Rs. 1,250 crores or more in atleast three sectors
 - During 2009-10 bid out at least 5 projects with a total cost of Rs. 1,500 crores or more in atleast four sectors
- ◆ Commit to establish such policies and regulatory and governance frameworks in the identified infrastructure sectors to enable a transparent and effective private sector participation.
- ◆ Prepare a 'Plan of PPP projects' in conjunction with its Annual Plan.
- ◆ Commit to (i) adopt standard concession agreements for PPP projects in defined infrastructure sectors; (ii) adopt competitive bidding procedures for bidding and awarding of infrastructure projects under defined rules and procedures according to best international commercial practices and GOI guidelines; (iii) designate a State-level dispute resolution mechanism for the speedy resolution of disputes relating to PPP projects; and (iv) adopt formal State policies on environment, resettlement and social safeguards with respect to the implementation of infrastructure projects, according to best international commercial practices.

Outcomes

The Technical Assistance aims to:

- ★ Help the participating State implement PPP schemes effectively and efficiently.
- ★ Enhance capacity of PPP cells in participating entities to prepare, evaluate, and appraise PPPs in infrastructure.
- ★ Significantly improve monitoring of overall progress in PPPs in infrastructure at both central and state levels through well-knit databases.
- ★ Increase awareness among potential private sector partners about the project cycle of PPP projects in infrastructure, and the expectations of Government with respect to value for money.
- ★ Over the long term, an increase in private sector participation in infrastructure development and management throughout the country.

For details please refer to www.pppinindia.com

India Infrastructure Project Development Fund (IIPDF)

The Finance Minister in the Budget Speech for 2007-08 announced in the Parliament the setting up of a revolving fund in Department of Economic Affairs, Ministry of Finance, Government of India with an initial corpus of Rs. 100 crore for supporting the development of credible and bankable Public Private Partnership projects that can be offered to the private sector.

The India Infrastructure Project Development Fund (IIPDF) provides financial support for quality project development activities. The Sponsoring Authority will, thus, be able to source funding to cover a portion of the PPP transaction costs, thereby reducing the impact of costs related to procurement on their budgets.

Eligibility

- ★ The proposals for assistance under the Scheme would be sponsored by Central Government Ministries/Departments, State Governments, Municipal or Local Bodies or any other statutory authority.
- ★ To seek financial assistance from the IIPDF it would be necessary for the Sponsoring Authority to create and empower a PPP Cell to not only undertake PPP project development activities but also address larger policy and regulatory issues to enlarge the number of PPP projects in Sponsoring Authorities' shelf.
- ★ The PPP project should be from the sectors that are eligible for viability gap funding under the Government of India's Scheme for Financial Support to PPPs in Infrastructure or any other sectors with the approval of the Finance Minister.
- ★ The IIPDF is available to the Sponsoring Authorities for PPP projects for the purpose of meeting the project development costs which may include the expenses incurred by the Sponsoring Authority in respect of feasibility studies, environment impact studies, financial structuring, legal reviews and development of project documentation, including concession agreement, commercial assessment studies (including traffic studies, demand assessment, capacity to pay assessment), etc. required for achieving Technical Close of such projects, on individual or turnkey basis, but will not include expenses incurred by the Sponsoring Authority on its own staff.

The Sponsoring Authority will be able to source funding to cover PPP transaction costs, thereby reducing the impact of costs related to procurement on their budgets

The IIPDF finances the Transaction Advisory costs on a PPP project where such Transaction Advisers are appointed by the Sponsoring Authority through a transparent system of procurement

- ★ The IIPDF will be available to finance an appropriate portion of the cost of consultants and Transaction Advisers on a PPP project where such consultants and Transaction Advisers are appointed by the Sponsoring Authority either from amongst the Transaction Advisers empanelled by Department of Economic Affairs or through a transparent system of procurement under a contract for services.

Government Support

- ★ The IIPDF will ordinarily fund upto 75 percent of the project development expenses to the Sponsoring Authority as an interest free loan. 25 percent will be co-funded by the Sponsoring Authority.
- ★ On successful completion of the bidding process, the project development expenditure would be recovered from the successful bidder. However, in the case of failure of the bid, the loan would be converted into grant. In case the Sponsoring Authority does not conclude the bidding process for some reason, the entire amount contributed would be refunded to the IIPDF.

Approval process

- ★ The IIPDF will be administered by the Empowered Institution, consisting of Additional Secretary (Economic Affairs), Additional Secretary (Expenditure), representative of Planning Commission not below the rank of Joint Secretary, Joint Secretary of the line Ministry and Joint Secretary (DEA).
- ★ To seek project development funding from the IIPDF, the Sponsoring Authority will apply to the PPP Cell in DEA through the Memorandum for Consideration accompanied with the Preliminary Report of the project (in six copies). The MFC would provide justification for undertaking detailed feasibility studies to be taken up for financing out of the corpus of the Fund in the prescribed proforma.
- ★ Proposals that do not envisage VGF can also be submitted for funding. Proposals for funding under these Guidelines would cover the entire gamut of PPP projects, i.e. BOT (Toll), BOT (Annuity), long term management contracts etc. The decision of the Empowered Institution about the eligibility of a project shall be final.
- ★ Applications received by tenth day of a month shall be considered and decided in the meeting of the EI in the first week of the succeeding month. The possible decisions are unconditional funding approval, approval subject to certain conditions or no funding.
- ★ The funding will be used on a single project, which is approved by the EI.
- ★ The disbursement of funds will be as per the milestones approved by the EI.

The Guidelines and Scheme for India Infrastructure Project Development Fund have been notified by Ministry of Finance, Department of Economic Affairs vide OM No.7/2/2007-PPP dated December 5, 2007.

For details please refer to www.pppinindia.com

Transaction Advisers for PPP Projects

Quality transaction management services from qualified firms having skills and experience to provide both commercial/financial and legal services in support of PPP transactions can help the Sponsoring Authorities make implementation of PPP projects smoother and efficient.

The Government has pre-qualified a Panel of firms through International Competitive Bidding. The Panel of pre-qualified Transaction Advisers has been established in response to demand from some of the State Governments and its agencies raised in different fora for assistance in short-listing Transaction Advisers/consultants to eliminate delays in creation of shelf of projects and to prevent hiring of Transaction Advisers/consultants on nomination basis. The Panel is intended to:

- ★ Streamline the tendering process for the engagement of Transaction Advisers for PPPs.
- ★ Enable fast access to firms that have pre-qualified against relevant criteria.
- ★ Ensure transparency and accountability through clear definition of the processes and the role and responsibilities of the agencies and the private sector.

The short-listed firms have been evaluated for their capability and experience in discharging a lead role in PPP transactions. Only those firms have been short-listed which were assessed as the most suitable for providing this advice, rather than pre-qualifying all firms who pass a minimum threshold. Panel members have skills and experience to provide both commercial/financial and legal services in support of PPP transactions. Where specialist technical advice related to the sector concerned is required, this should be separately procured.

This Panel is available to all Central, State and Municipal Governments who are undertaking PPP transactions. They would be able to select any of the consultants from the Panel on the basis of a financial proposal, against

Steps for Using the Panel of Consultants

- Confirm proposed project is eligible
- Develop specific terms of reference for the assignment
- Determine which Panel members to approach
- Seek financial quote from Panel members
- Evaluate proposals from Panel members
- Sign contract for provision of transaction services with selected Panel member
- Service commences
- Evaluate and report performance to DEA on performance of selected Panel member

The Panel member should confirm that there is no conflict of interest in taking up the transaction advisory assignment

a defined scope of work. The Panel member should confirm that there is no conflict of interest in taking up the transaction advisory assignment. Sponsoring Authority should take an undertaking from the tendering Panel member or consortia, that they/their affiliates will not bid for/rate the same projects.

Firms on the Panel will contract directly with the agencies concerned for provision of transaction management services. Department of Economic Affairs should however be kept informed on the use being made of the Panel, and the performance of Panel members.

'A Guide for the use of the Panel' has been prepared and notified which suggests possible scope of transaction advisory services and describes the process and the tasks involved in appointing a Transaction Advisor for a PPP transaction.

State Governments have been advised that instead of procuring transaction services by utilizing the services of a state level organisation on nomination basis, they may include the firm, if it has the right credentials, with the Panel through a Government Order and seek financial quotes from the extended Panel.

States can draw upon IIPDF to incur expenditure on hiring of Transaction Advisors.

The Panel is valid for a period of two years. During this period DEA may remove firms from the Panel if it concludes that they are not capable of providing the required services in a professional manner or add new firms, after due diligence. Any information on change to Panel membership will be made available through www.pppinindia.com.

Pre-bid Grading of Projects

Risk has a cost. Higher the risk perception, greater the need to indemnify oneself against the risk through higher valuation. Department of Economic Affairs initiated the idea of grading of projects by the rating agencies at pre-bid stage i.e. before the project developer is identified. 'Project Grading' is a new product developed by four leading rating agencies - CARE, CRISIL, Fitch Ratings and ICRA - in consultation with DEA. A common framework for pre-bid rating has been developed. The rating agencies have their independent methodologies and criteria for evaluating the project related risk. While these agencies will adopt their own proprietary methodologies for evaluation, broad analytical framework proposed to be followed by all the rating agencies would be the same.

Prospective Clients for Pre-bid Grading of Projects

Sponsoring Authorities of the project such as Central Ministries, State Governments, Public Sector Undertakings and Statutory Bodies. The prospective bidder may also like to get an independent assessment of the project in case the sponsoring agency decides not to get a grading from a rating agency.

Methodology

The grading methodology includes detailed analysis of the various risk parameters as under:

★ **Project related factors**

Assessment of level of preparedness on various factors essential for implementation of project.

Key factors:

- ◆ Identification, availability of land and project related infrastructure
- ◆ Status of statutory clearances
- ◆ Resettlement and rehabilitation requirements or status

Pre-bid Grading

The grading of a project at the pre-bid stage would essentially be a comment on the risks involved in undertaking the project. Unlike a normal credit rating, the grading exercise does not cover opinion on the credit risks associated with the rated instrument/ issuer. Grading will be on a five point scale with Grade 1 indicating minimal project risks and Grade 5 indicating very high project risks in comparison to other infrastructure projects at the pre-bid stage. The pre-bid stage grading does not reveal project's credit rating or financial/commercial strength in any way.

- ◆ Accessibility to site and other site related infrastructure
- ◆ Availability and pricing of inputs
- ◆ Technology risk
- ◆ Off-take arrangement and market risk
- ◆ Credit risk of off-taker and payment security mechanism envisaged

★ **Contractual Risk Assessment**

The identification of risks involved over project life including construction period and mitigation thereof through various contractual arrangements would be key parameters. Evaluation of risk allocation framework and an examination whether the same is well defined and documented in unambiguous terms.

Key factors:

- ◆ Roles and responsibilities of different project parties, Government and Regulator
- ◆ Political, regulatory and legal environment
- ◆ Track record of various public sector entities in managing contracts
- ◆ Clarity, comprehensiveness and enforceability of contracts
- ◆ Provisions in respect of force majeure
- ◆ Provisions in respect of financial implications of liquidated damages
- ◆ Examination of major documents, i.e. CA, etc.

★ **Evaluation of Bidding Process/selection process**

Key factors:

- ◆ Design of the bid process
- ◆ Qualifying criteria
- ◆ Bidding criteria
- ◆ Comparison of the selection process with international best practices

★ **Broad Financial Parameters**

Assessment of key financial indicators based on a set of assumptions as well as comparison with other infrastructure projects in similar sector.

Key factors:

- ◆ Assessment on viability based on base case as included in the Project Report
- ◆ Assessment of key financial indicators
- ◆ Expected funding mix

The option to get a project graded will rest with the Sponsoring Authority.

Outcomes

Independent evaluation is likely to result in better investors.

Government is likely to get better value for money.

The Sponsoring Authority can mitigate the risks identified by the rating agencies before bidding

Information dissemination is the key to successful PPPs - a systematic compilation of knowledge and experiences on PPP projects across sectors, greater awareness of good examples and established procedures adds to execution clarity of the sponsoring entity and provides information to investors on PPP schemes and incentives. www.pppinindia.com is a resource hub of information of PPPs-related policies, procedure, framework and guidelines. By showcasing potential PPP projects and opportunities, the website aims to bridge the information gap and facilitate more meaningful transactions in the PPP space.

Salient features

- ★ The objective of the website is promotion of PPP projects, highlighting policy and procedures, financing, case studies, events, resources and news.
- ★ It is a one stop site on information related to Public Private Partnership initiatives in India. It indicates the status of the proposals received by the PPP cell for clearance by PPP Appraisal Committee, to avail viability gap funding or IIPDF assistance as well as all policy issues on PPP projects.
- ★ The site carries a link to online database on PPP projects, sponsored by Central Ministries, States and local level governments.
- ★ Provides information about the possible investors and financial institutions on the website.
- ★ Facilitates preparation of quality proposals by disseminating the above information as well as promoting investment in PPP both by domestic or overseas parties by highlighting the investment opportunities in the sector.

The website is a one-stop site on information relating to Public Private Partnership initiatives in India

- ★ The aim of the website is to bring project and service providers together. The website provides a platform to Government of India, State governments as well as financial institutions, investors and stake holders to detail various PPP engagements.
- ★ The site provides links to institutions, websites and resources related to PPP and infrastructure, including contact points and referrals about Government agencies.
- ★ Private sector players could promote their company through advertising or listing on the website.

The purpose of the database is to provide comprehensive and current information on the status and extent of PPP initiatives in India at the Central, State, and sectoral levels. The database is also available online through a link on www.pppinindia.com.

The database provides essential information on economic sector, host state, collaborating government department(s), private investor(s), capital commitments and total resource commitments.

Stakeholder Specific Uses

- ★ **Department of Economic Affairs:** To study current and historical PPP trends; develop investment promotion packages for investors; and assess the distribution of PPP initiatives throughout India on both a jurisdictional and sectoral basis.
- ★ **Government of India infrastructure ministries:** To determine the attractiveness of their sector to private investors. To determine the lags and achievements in attaining milestones and as a basis for development of Management Information System for execution and monitoring of PPP projects.
- ★ **State Governments:** As a baseline to assess their performance in attracting private capital in relation to other states and the central government projects. In addition, as a decision support tool for balanced intra-regional development and execution and monitoring of PPP projects.
- ★ **Private Investors:** To determine what sectors, and states are most promising for undertaking public private partnership initiatives. In addition, investors will be able to assess active investors in various sectors.
- ★ **Academicians and Researchers:** Aid research efforts in the area of PPP development models.
- ★ **Media:** To report on the role, results of and impact of PPP initiatives in India.

The database provides comprehensive and current information on the status and extent of PPP initiatives in India at the Central, State, and sectoral levels

The website assists in research and enables the citizens to learn more about the PPP initiatives in India

- ★ **Citizens:** To learn more about the role of public private partnerships in the development efforts of India.

The database will list information on all PPP projects in India. The database on a particular PPP project will essentially provide data on:

- ★ **General Information**
(Project Name, State, Location, Sector, Capacity/Size, Type of PPP, Type of Nodal Department, Contracting Authority, Contract Period, Project Status, Contact Information)
- ★ **Bidding Information**
(Contract Award Method, Bid Criteria, Number of Bids, Request for Qualification, Request for Proposal, Contract Signing Date/Award Date, Financial Closure Date, Date of Commencement of Construction)
- ★ **Project Benefits and Costs**
(Investments in Facilities/Government Assets, Estimated Project Cost, Amount of Government Subsidy, Project Benefits and Outcomes, Performance Monitoring)
- ★ **Legal Instruments**
(Legal Instrument, Market Structure and Competition, Regulatory Framework, Risk Allocation, Tariffs, Dispute Resolution Mechanism, Renegotiation and Disputes within Project)
- ★ **Financial Instruments**
(Equity, Debt, Other Financial Instruments, Government and Private Equity, Government Support in Terms of Subsidy, VGF and Project Cost at Financial Close)

Learning and Knowledge Sharing

What has been done till now

- ★ A study was undertaken in collaboration with the World Bank to examine how capacities for conceptualizing, structuring and managing PPPs could be developed in India.
- ★ As part of its efforts to mainstream Public Private Partnerships (PPP) for accelerated infrastructure development in India, Ministry of Finance, Department of Economic Affairs and ADB organised 4 regional workshops of Chief Secretaries on PPP. The workshops were held between June 12 and September 2, 2006 in Bangalore, Delhi, Kolkata and Goa.
- ★ International conference on meeting India's infrastructure needs with PPPs was held in February 2007 in collaboration with the World Bank.
- ★ DEA organized "Programme on Public Private Partnership for Development" held on January 29 - February 3, 2007, at IIM Ahmedabad. The Programme dwelt upon wide ranging issues on PPP initiatives and case studies of recent times and from around the world. Seventy policy makers attended from various Central Ministries and the State Governments.
- ★ The first 'PPP Nodal Officers' Round Table' was held on September 22-23, 2007 to facilitate exchange of views and interaction among PPP nodal officers from Central Ministries and State Governments.
- ★ Two regional policy workshops on 'Mainstreaming PPPs in the Urban Sector' were organised by DEA in collaboration with Ministry of Urban Development, Government of India, Asian Development Bank and Commonwealth Secretariat, U.K. The workshops were held in Jaipur (October 15-16, 2007) and Hyderabad (October 18-19, 2007), which were attended by 150 participants from Government of India and 18 States and municipalities. The workshop outcomes included identification of cities with sufficient potential and

Participants Feedback

"Case method invited active class discussion. Excellent discourse on policy hurdles that have enabled growth"

"Insight into PPPs and financial perspective. Area where more vigilance is recognized.

Privatization is coming to stay, we have to understand the analytical part so that the Government is not taken for a ride and the entrepreneur also earns"

"Helped me to deal with PPP projects effectively, to enlighten myself on the subject, to deal the situations and think beyond traditional ways it has been handled so far."

- Programme on PPPs for Development

To intensify and deepen the capacity building of public functionaries, DEA is developing a comprehensive capacity building programme

capacity to undertake pilot PPP projects which would serve as standards to develop further projects or scale up the existing projects.

- ★ Six regional workshops were organised jointly with CII on risk pre-bid grading of projects. The workshops, attended by over 500 participants, were held in Mumbai, Goa, Kochi, Bhubaneswar, Shillong and Jaipur and brought together key stakeholders from the industry and Government at the State level.
- ★ Five training programmes were organised on 'Risk Assessment and Mitigation' which were attended by 98 participants from the State and Central governments. CRISIL Ltd., on behalf of the DEA, conducted the trainings through extensive use of real life examples and case studies so that participants could apply the theoretical aspects discussed to actual issues they have experienced.
- ★ Exposure to best practices in countries with substantial experience in PPPs was undertaken for State/Central Ministry officers during April 2008.
- ★ DEA, in collaboration with Asian Development Bank, engaged KPMG, U.K. in January 2008, to undertake PPP opportunities analysis for the health and education sectors in India. Six PPP 'model' structures were developed through stakeholders consultations and workshops in Ahmedabad (23 February, 2008) and Goa (April 25, 2008). The workshop outcome included 10 projects being suggested by the various States as potential pilot projects for further structuring with support from DEA and ADB. The objective of the exercise is to develop sustainable demonstration projects that may eventually have a catalyst effect on PPPs in these sectors.

Comprehensive framework for capacity building

To intensify and deepen the capacity building of public functionaries, DEA is developing a comprehensive capacity building programme, in collaboration with World Bank and other Bilateral/Multilateral agencies, which would be delivered through Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie, State Administrative Training Institutes and Central Training Institutes. The programme would target officials of Central and State Governments, para-statal and local government bodies across functional domains. It would include conducting of a training needs' assessment, development of course content, training of trainers and roll-out through of the programme through few demonstration modules for the initial handholding of trainers. It is expected that this would enable the training institutes to develop the skills to manage/conduct multi-level and cross-sectoral training courses.

Glossary

ADB

Asian Development Bank

CII

Confederation of Indian Industry

DEA

Department of Economic Affairs

Eligible Sectors

Sectors that are eligible for Viability Gap Funding (VGF) under the Government of India's Scheme for Financial Support to PPPs in Infrastructure.

Empowered Committee

A Committee under the Chairmanship of Secretary (Economic Affairs) and including Secretary (Planning Commission), Secretary (Expenditure) and the Secretary of the line ministry dealing with the subject.

Empowered Institution

Empowered Institution (EI) as notified vide DEA's Notification No.2/10/2004-INF dated August 18, 2005.

IIFCL

India Infrastructure Finance Company Ltd. (A company to be incorporated under the Companies Act, 1956).

IIPDF

India Infrastructure Project Development Fund

Lead Bank

Financial institution (FI) that is funding the infrastructure project by providing debt to an extent not less than 25 percent (twenty five percent) of the total project debt and designated as such by an inter-institutional group or consortium of financial institutions.

Lead Financial Institution

Financial institution (FI) that is funding the PPP project, and in case there is a consortium of FIs, the FI designated as such by the consortium.

Long Term Debt

Debt provided by the IIFCL to the Project Company where the average maturity for repayment exceeds 10 years.

MOU

Memorandum of Understanding

Memorandum for Consideration (MFC)

The format in which information will be provided by the Sponsoring Authority while applying for IIPDF grant.

Project Development Expenses

Expenses incurred by the Sponsoring Authority (as consultant's fees etc.) in respect of development of each Project as per the budget approved by the Empowered Institution, which would include feasibility studies, financial structuring, legal reviews (including environment studies) and development of project documentation, including concession agreement, commercial assessment studies (including traffic studies, demand assessment, capacity to pay assessment) etc. required for achieving Technical Close of such projects, on individual or turnkey basis, but would not include expenses incurred by the Sponsoring Authority on its own staff etc.

Private Sector Company

A company in which 51 percent or more of the subscribed and paid up equity is owned and controlled by a private entity.

Project Company

The company which is implementing the infrastructure project for which assistance is to be given by the IIFCL.

Project Term

The duration of the contract or concession agreement for the PPP project.

Project

A project in any of the infrastructure sectors identified by the EI for the purpose of this Scheme.

Public Private Partnership (PPP)

Partnership between a public sector entity (Sponsoring Authority) and a private sector entity (a legal entity in which 51 percent or more of equity is with the private partner/s) for the creation and/or management of infrastructure for public purpose for a specified period of time (concession period) on commercial terms and in which the private partner has been procured through a transparent and open procurement system.

Public Private Partnership (PPP) Project

A project based on a contract or concession agreement, between a Government or statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service.

Public Sector Company

A company in which 51 percent or more of the subscribed and paid up equity is owned and controlled by the Central or a State Government, jointly or severally, and includes any undertaking designated as such by the Department of Public Enterprises and companies in which majority stake is held by Public Sector Companies other than financial institutions.

Sponsoring Authority(ies)

Central Government Ministries/Departments, State Governments, Municipal or Local Bodies, PSUs or any other statutory authority (such as the Delhi Development Authority).

Technical Close

The stage of execution of concession agreement, between the private sector developer and the Sponsoring Authority or its agencies, subsequent to selection of the private sector developer through a bidding process.

Total Project Cost

The lower of the total capital cost of the PPP Project: (a) as estimated by the government/statutory entity that owns the project, (b) as sanctioned by the Lead Financial Institution, and (c) as actually expended; but does not in any case include the cost of land incurred by the Government/statutory entity.

Transaction Advisers

Consultants hired through a transparent system of procurement by the sponsoring authorities to assist them in designing the project and/or providing technical, financial and legal input for the project design, and providing advice for the management of the process of procuring the private sector partner for the PPP project.

VGF

Viability Gap Funding means a grant one-time or deferred provided under the Government of India's Scheme for Financial Support to PPPs in Infrastructure, with the objective of making a project commercially viable.

Notes



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