



International Environmental
Law Research Centre

Scheme for Support to Public Private Partnerships in Infrastructure, 2005

This document is available at ielrc.org/content/e0535.pdf

For further information, visit www.ielrc.org

Note: This document is put online by the International Environmental Law Research Centre (IELRC) for information purposes. This document is not an official version of the text and as such is only provided as a source of information for interested readers. IELRC makes no claim as to the accuracy of the text reproduced which should under no circumstances be deemed to constitute the official version of the document.



GOVERNMENT OF INDIA

**MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS
(INFRASTRUCTURE SECTION)**

**SCHEME
FOR
SUPPORT TO PUBLIC PRIVATE PARTNERSHIPS IN
INFRASTRUCTURE**

JULY, 2005

Scheme for Support to Public Private Partnerships in Infrastructure

- A. Whereas the Government of India recognizes that there is significant deficit in the availability of physical infrastructure across different sectors and that this is hindering economic development;
- B. whereas the development of infrastructure requires large investments that cannot be undertaken out of public financing alone, and that in order to attract private capital as well as the techno-managerial efficiencies associated with it, the Government is committed to promoting Public Private Partnerships (PPPs) in infrastructure development; and
- C. whereas the Government of India recognizes that infrastructure projects may not always be financially viable because of long gestation periods and limited financial returns, and that financial viability of such projects can be improved through Government support.
- D. Now, therefore, the Government of India has decided to put into effect the following scheme for providing financial support to bridge the viability gap of infrastructure projects undertaken through Public Private Partnerships.

1. Short Title and Extent

- (i) This scheme will be called the Scheme for Financial Support to Public Private Partnerships (PPPs) in Infrastructure. It will be a Plan Scheme to be administered by the Ministry of Finance. Suitable budgetary provisions will be made in the Annual Plans on a year-to-year basis.
- (ii) The scheme shall come into force with immediate effect.

2. Definitions

In this scheme, unless the context otherwise requires:

Empowered Committee means 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 means an institution, company or inter-ministerial group designated by the Government for the purposes of this scheme.

Lead Financial Institution means the 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;

Private Sector Company means a company in which 51% or more of the subscribed and paid up equity is owned and controlled by a private entity;

Project Term means the duration of the contract or concession agreement for the PPP project;

Public Private Partnership (PPP) Project means 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 on payment of user charges;

Total Project Cost means 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; and

Viability Gap Funding or Grant means a grant one-time or deferred, provided under this Scheme with the objective of making a project commercially viable.

3. Eligibility

1. In order to be eligible for funding under this Scheme, a PPP project shall meet the following criteria:

(a) The project shall 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 process of open competitive bidding; provided that in case of railway projects that are not amenable to operation by a Private Sector Company, the Empowered Committee may relax this eligibility criterion.

(b) The PPP Project should be from one of the following sectors:

- (i) Roads and bridges, railways, seaports, airports, inland waterways;
- (ii) Power;
- (iii) Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas;
- (iv) Infrastructure projects in Special Economic Zones; and
- (v) International convention centres 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.

- (c) The project should provide a service against payment of a pre-determined tariff or user charge.
- (d) The concerned Government/statutory entity should certify, with reasons;
 - (i) that the tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP;
 - (ii) that the Project Term cannot be increased for reducing the viability gap; and
 - (iii) that the capital costs are reasonable and based on the standards and specifications normally applicable to such projects and that the capital costs cannot be further restricted for reducing the viability gap.

4. Government Support

- (1) The total Viability Gap Funding under this scheme shall not exceed twenty percent of the Total Project Cost; provided that the Government or statutory entity that owns the project may, if it so decides, provide additional grants out of its budget, but not exceeding a further twenty percent of the Total Project Cost.
- (2) Viability Gap Funding under this scheme will normally be in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance may be considered by the Empowered Committee and sanctioned with the approval of Finance Minister on a case-by-case basis.
- (3) Viability Gap Funding up to Rs. 100 crore (Rs. One hundred crore) for each project may be sanctioned by the Empowered Institution subject to the budgetary ceilings indicated by the Finance Ministry. Proposals up to Rs. 200 crore (Rs. Two hundred crore) may be sanctioned by the Empowered Committee, and amounts exceeding Rs. 200 crore may be sanctioned by the Empowered Committee with the approval of Finance Minister.
- (4) Unless otherwise directed by the Ministry of Finance, the Empowered Institutions may approve project proposals with a cumulative capital outlay equivalent to ten times the budget provisions in the respective Annual Plan.
- (5) In the first two years of operation of the Scheme, projects meeting the eligibility criteria will be funded on a first-come, first served basis. In later years, if need arises, funding may be provided based on an appropriate formula, to be determined by the Empowered Committee, that balances needs across sectors in a manner that would make

broad base the sectoral coverage and avoid pre-empting of funds by a few large projects.

5. Approval of project proposals.

- (1) Project proposals may be posed by a Government or statutory entity which owns the underlying assets. The proposals shall include the requisite information necessary for satisfying the eligibility criteria specified in paragraph 3 above.
- (2) Projects based on standardized/model documents duly approved by the respective Government would be preferred. Stand-alone documents may be subjected to detailed scrutiny by the Empowered Institution.
- (3) The Empowered Institution will consider the project proposals for Viability Gap Funding and may seek the required details for satisfying the eligibility criteria.
- (4) Within 30 days of receipt of a project proposal, duly completed as aforesaid, the Empowered Institution shall inform the sponsoring Government/statutory entity whether the project is eligible for financial assistance under this Scheme. In case the project is based on stand-alone documents (not being duly approved model/standard documents), the approval process may require an additional 60 (sixty) days.
- (5) In the event that the Empowered Institution needs any clarifications or instructions relating to the eligibility of a project, it may refer the case to the Empowered Committee for appropriate directions.
- (6) Notwithstanding the approvals granted under this scheme, projects promoted by the Central Government or its statutory entities shall be approved and implemented in accordance with the procedures specified from time to time.
- (7) In cases where viability gap funding is budgeted under any on-going Plan scheme of the Central Government, the inter-se allocation between such on-going scheme and this scheme shall be determined by the Empowered Committee.

6. Procurement process for PPP Projects

- (1) The Private Sector Company shall be selected through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of Viability Gap Funding required by a Private Sector Company for implementing the project where all other parameters are comparable.
- (2) The Government or statutory entity proposing the project shall certify that the bidding process conforms to the provisions of this Scheme and convey the same to the Empowered Institution prior to disbursement of the Grant.

7. Appraisal and monitoring by Lead Financial Institution

- (1) 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 PPP project shall be awarded in accordance with paragraph 6 above; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Institution may extend this period by not more than two months at a time.
- (2) The Lead Financial Institution shall, within three months from the date of bid award, present its appraisal of the project for the consideration and approval of the Empowered Institution; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Institution may extend this period by not more than one month at a time.
- (3) The Lead Financial Institution shall 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. It shall send quarterly progress reports to the Empowered Institution which will make a consolidated progress report once every quarter for review by the Empowered Committee.

8. Disbursement of Grant

- (1) A Grant under this scheme shall be disbursed only after the Private Sector Company has subscribed and expended the equity contribution required for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter.
- (2) The Empowered Institution will release the Grant to the Lead Financial Institution as and when due, and obtain reimbursement thereof from the Finance Ministry.
- (3) 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 format of such Tripartite Agreement shall be prescribed by the Empowered Committee from time to time.

9. Revolving Fund

A revolving fund of Rs. 200 crore (Rs. Two hundred crore) shall be provided by the Finance Ministry to the Empowered Institution. The Empowered Institution shall disburse funds to the respective lead financial Institutions and claim reimbursement thereof from the Ministry of Finance.

10. Guidelines

The Guidelines issued vide Ministry of Finance Press Release as well as OM of F. No. 2/10/04-Inf. dated 19th August 2004 stands withdrawn with immediate effect.