

# Annexure I

## Guideline for execution of PPP Projects.

1. These guideline are being issued in exercise of provisions given under Chapter II, Section 10 (x) of the Bihar State Infrastructure Enabling Act, 2006. The terms used in the guideline shall have the same meaning as given in the Act.
2. This is a guideline for the Government Agencies<sup>1</sup> and Local authorities<sup>2</sup> on the steps required for undertaking a PPP Projects in the State of Bihar, and process to be followed. This guideline shall be applicable for consideration and evaluation of a project to be executed under PPP mode.
3. The main steps for undertaking any Public Private Partnership (PPP) project are listed below:
  - i. Project identification & prioritization
  - ii. Pre-feasibility
  - iii. Appraisal of projects & 'conceptual approval'.
  - iv. Preparation of techno-economic feasibility report.
  - v. Bid process preparation & 'in-principle' approval
  - vi. Running Bid Process.
  - vii. Final approval and award of contract.
  - viii. Fulfillment of condition precedent.
  - ix. Financial Closure.
  - x. Execution & Monitoring.

- i. **Project identification & prioritization:-** Project may be identified by any of the following:

- Government Agency or Local Authority

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<sup>1</sup> "Government Agency" means any department of the Government or any corporation or body owned or controlled by the Government by reason of the Government holding not less than fifty one percent for paid up share capital in such corporation or body

<sup>2</sup> "Local Authority" means any municipal corporation or municipal council or any panchayat or any other statutory body formed, elected or appointed for local self-Government.

- IDA on request from a Government Agency or Local Authority
- IDA, on its own.

After the identification of the project, the next steps required, generally need the help of consultants, known as transaction advisor. The Government agencies or local authorities may select their own transaction advisors, by open advertisement or from the panel of transaction advisors, if any, prepared by IDA or can approach IDA for execution of the next steps through IDA, with the help of transaction advisor (s) empanelled/retained by IDA. In either case the approval from the department of the State Cabinet shall be the responsibility of the concerned agency or the Local Authority.

- ii. **Pre-feasibility:-** Normally pre-feasibility studies for the selected projects need to be carried out in order to check the viability of the projects.
- iii. **Appraisal of pre-feasibility & “Conceptual” Approval:-** After the pre-feasibility report is prepared, it shall be placed before the Board of IDA for appraisal of pre-feasibility and conceptual approval. Thereafter, the concerned Government Agency or Local Authority (through the department of Urban Development or Department of Rural Development as the case may be) shall obtain the approval of the Departmental Minister. The project should be brought to the knowledge of the Chief Minister, at this stage, where the project size is more than Rs. 100 Crores or where transfer of land belonging to a Government Agency or Local Authority is involved.
- iv. **Preparation of Techno-Economic Feasibility Report (TEFR):-** TEFR is a further step in firming-up the proposal. When the proposal has been approved on the basis of pre-feasibility report, a TEFR may be prepared to obtain greater details on technical aspects of the project, financial and environment impact to facilitate in estimation of the capital cost, value for money (VfM) analysis, risk allocation and transfer mechanism, viability gap funding (VGF) requirements as well as the technical specifications with greater accuracy.

- v. **Bid Process Preparation & “in-principle Approval”**:- This is very important stage of any PPP project cycle. Bid process should be highly transparent and completed within a reasonable time. Bid documents include the Request for Qualification (RFQ)/ Expression of Interest (EOI)/Request for Proposal (RFP) and Draft Concession Agreement (DCA) and the Schedules to these documents. The document will clearly state risk sharing mechanism.

After these documents are prepared, the necessary ‘in-principle approval’ required shall be as follows:

- (a) In cases, where the project requires VGF, it would be submitted for approval of the Empowered Institution/ Empowered Committee of the Government of India, as per the guidelines of the Government of India, in this regard. Thereafter, it shall be submitted for approval of the Cabinet, if the Model Concession Agreement for that particular subject is not approved earlier by the State Cabinet. If MCA is already approved by the State Cabinet, the Cabinet approval shall not be necessary at this stage. Thereafter, the steps from (vi) onward shall be started.
- (b) In case, where project does not require VGF, it shall be submitted to an Empowered Committee for PPP processing constituted under the chairmanship of Chief Secretary, Bihar, as notified by the department of Planning and Development, Government of Bihar. IDA shall serve as the secretariat for placing a proposal before the Empowered Committee at this stage.

With the recommendation of the Empowered Committee, the project documents shall be placed before the State Cabinet for approval and thereafter, the steps (vi) onwards shall be started. However, at this stage, it need not to go to the State Cabinet, if MCA for that particular subject is already approved by the Cabinet.

- vi. **Running of Bid Process:-** The first step in running the bid process is to issue an advertisement for invitation for RFQ or EOI from interested Private Sector Developers /Participants. The eligible bidders would be shortlisted on the basis of the laid guidelines. After this the RFP is issued.
- vii. **Final Approval and award of contract:-** After the final selection of bidder, the Government Agency/Local Authority will send the finalized MCA to the Empowered Committee for approval/recommendations. Thereafter final approval of the cabinet will be obtained.
- viii. **Fulfillment of Conditions precedent: -** Conditions precedent is the set of conditions (such as handing over the site etc. ) which need to be fulfilled by the Private Partner as well as the implementing Agency. These have to be fulfilled prior to the start of the concession (known as the appointed date).

In case of non-fulfillment, penalty/damages would be charged by either party as per the details mentioned in the bid documents.

- ix. **Financial Closure:-** This marks the start of concession period. Financial closure refers to the tie-up of the funds with Banks/FLs/etc. required by the private partner for the project.
  - x. **Execution & Monitoring:-** In this stage of the PPP project, construction is commenced on the appointed date. An Independent Engineer may be appointed after mutual agreement between the Government Agency/Local Authority and the Concessionaire. Monitoring of project will be done by the Government Agency or the Local Authority. However, IDA may assist on the request of the Government Agency or the Local Authority.
4. Till the time that a Empowered Committee for PPP is notified by the State Government at the relevant stages, it shall be considered by the Board of IDA.

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