MANUAL

FOR FEDERAL PUBLIC PRIVATE PARTNERSHIP PROJECTS

From Identification to Implementation

February 2024

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PREFACE

Infrastructure and related services are critical for economic development of Pakistan and there is an urgent need to address these critical infrastructure gaps to attain sustainable growth. With limited public sector funding available to cater to the country's overall public infrastructure requirements and related services, the Government of Pakistan made a policy decision to tap private sector investments and expertise to deliver effective, cost-efficient projects and associated services. Following this policy decision of the Federal Government in 2006, Infrastructure Project Development Facility (IPDF) - a Section 42 company registered under the Companies Ordinance, 1984 (now Companies Act 2017) functioning under the aegis of the Ministry of Finance - was established to facilitate the implementing agencies in developing and structuring their infrastructure projects on a Public Private Partnership (PPP) basis.

The mandate of IPDF was supported by "Pakistan Policy on Public Private Partnerships" that was initially approved in 2007 by the Economic Coordination Committee (ECC). This was replaced with a revised Policy that was approved by ECC on 26 January 2010. The mandate of IPDF was limited to the provision of transaction advisory services and capacity building of the implementing agencies.

With the enactment of the Public Private Partnership Authority Act, 2017 (the "P3A Act"), a new entity, the Public Private Partnership Authority ("P3A") was established, and IPDF was merged into the P3A. IPDF's assets, employees and liabilities were transferred to the newly established P3A with an improved and enhanced regulatory mandate as given in the P3A Act. The regulatory provisions of the P3A Act extend to Federal Government line ministries and their infrastructure/development projects. In its advisory role, the P3A may advise other governmental agencies, in accordance with its mandate under the P3A Act.
Whereas PPPs are envisaged to be critical for the further improvement of infrastructure and development projects in Pakistan, it is also recognised following international experiences that preparing and managing PPPs can be challenging and no guarantee for success (unless properly designed and executed). To maximise the probability of success, P3A is continuously working on strengthening the enabling framework for PPP.

Providing guidance to relevant stakeholders for the identification, development and implementation of PPPs is considered a vital element of this enabling framework along with providing technical assistance and facilitating capacity building. It is therefore that P3A has prepared a manual providing instructions, suggesting methodologies and approaches for delivering the necessary proceedings in an efficient and effective manner. The material presented in this manual is merely for guidance purposes. For purposes of making business, legal or other decisions, readers are advised to review the Public Private Partnership Authority Act, 2017 (as updated), as well as the rules and regulations made thereunder

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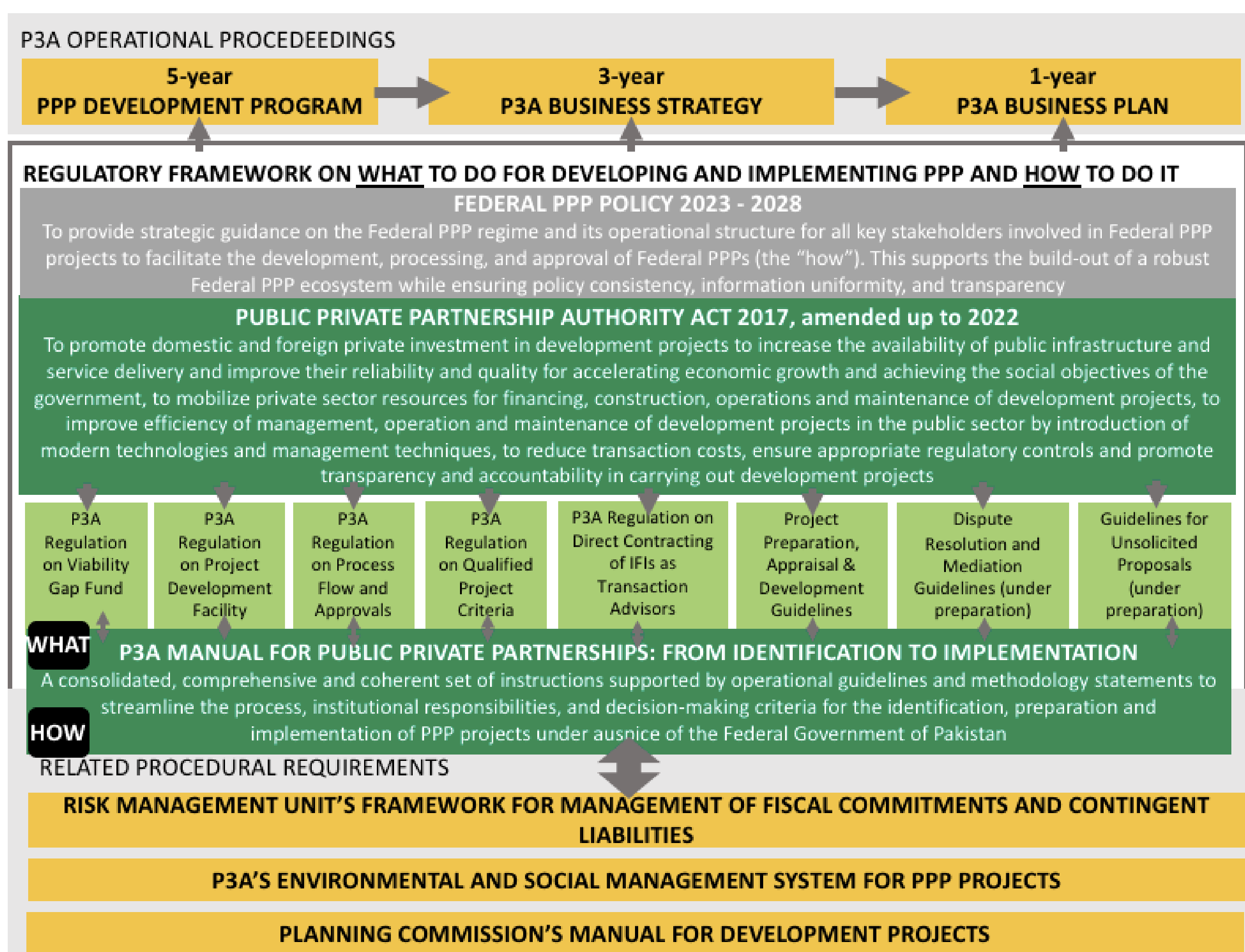
CONTEXT

The legal basis to promote and facilitate the use of PPP for delivering and improving infrastructure and other development projects is the P3A Act as enacted in 2017 and amended afterwards. The P3A Act outlines the implementing principles and introduces the institutional framework to govern the use of PPP. Further regulations and corresponding procedures and guidelines have been prepared by P3A to guide the different agencies involved in the preparatory proceedings and implementation of PPP Further, there are related procedural requirements imposed pursuant to other laws (as well as by other agencies) that have to be taken into consideration. All in all, there is now in place a fairly broad set of instructions and guidelines to ensure that PPP projects are duly prepared and implemented, with the aim of optimising the benefits of using PPP and to minimise the risk of failure necessary given the complex nature of PPPs. An overview of the relevant context in which the PPP Manual has a pivotal role is depicted below.



DEFINITIONS

Affordability	The ability of a project to be realistically accommodated within the inter-temporal budget constraints of the government.
Applicant	an individual entrepreneur, legal entity or an association of legal entities registered in accordance with the legislation of the Republic of Pakistan or a foreign country, interested in implementing the public-private partnership project and participating in the tender.
Appraisal	Conducting a series of feasibility exercises that inform a decision to approve, cancel, or revisit the project before the structuring of the contract.
Availability payments	Payments made by the Implementing Agency to the Private Party for the use (operation) of the PPP facility and (or) ensuring its free use during the service period of the PPP facility in accordance with the PPP agreement. Also referred to as Payment for the free use of the PPP facility.
Bankability	The ability of a project to be accepted by lenders as an investment under a project finance scheme, or the ability of the project to raise a significant amount of funding by means of long-term loans under project finance, due to the creditworthiness of the project in terms of sufficiency and reliability of future cash-flows.
Bid security (or bid bond)	A fixed amount of bid security furnished by the bidders if required by the Implementing Agency (or a bid securing declaration as per applicable law). The bid security is intended to ensure that if selected, the bidder will proceed with the contract. It is also known as a “bid submission guarantee”. The bid bond is generally returned to the successful bidder on effectiveness of the relevant contract or on financial close, as well as to the unsuccessful bidders at the close of the bidding process.

Bidder (or proposer)	In the broad sense, the entity, company or a group of entities or companies, such as a consortium, that submits a bid in response to an RFP. A bidder could be a single party or a consortium of parties, each responsible for a specific element, such as constructing the infrastructure, supplying the equipment, or operating the business. In strict terms, the bidder is only the entity/company or entities/companies that commit to form the project company or private partner (also known as the Special Purpose Vehicle (SPV)), with other members of the bidding consortium acting potentially as the "nominated contractor". The government normally contracts only with the company or companies that form the SPV, or with the SPV itself.
Capital expenditure	Capital expenditure (Capex): The initial construction costs of the infrastructure plus any expenditure on the constructed PPP assets that is not an operating expense (Opex).
CDWP	CDWP means Central Development Working Party
Commercial close	The point at which all the significant commercial issues between the Implementing Agency and the Private Party have been agreed. The PPP Agreement will normally be signed at commercial close.
Conditions precedent	Conditions to be fulfilled by the Private Party, the Implementing Agency or any third party, as the case may be, before drawing on the debt, or before the project contracts become effective.
Contingent liabilities	Obligations/liabilities triggered by a discrete but uncertain future event.
Cost-Benefit Analysis (CBA)	A type of analysis used to compare two or more options for a project or a decision based on economic flows duly adjusted, following some patterns. CBA is primarily used to assess the socio-economic feasibility or value of the selected project or project under assessment (regardless of the method of procurement).

Data room	A physical or electronic library of information, relevant to the project, made available to bidders.
Debt Service Coverage Ratio (DSCR)	Assessment of the ability of the project company to meet the debt service payment of each year. This is calculated by dividing the projected operating cash flow before debt service by the debt service of the respective year.
Direct agreement	An agreement normally made between the Private Party, the Implementing Agency, and the lenders. The agreement gives the lenders step-in rights to take over the operation of the key PPP contracts.
Direct liabilities	Payment commitments that will be incurred regardless of the occurrence of an uncertain future event.
Discount rate	The rate used to calculate the present value of future cash flows, usually determined on the basis of the cost of capital used to fund the investment from which the cash flow is expected.
Discounted cash flow analysis	A general term for analysis which discounts a stream of future cash flows in order to calculate a Net Present Value.
ECNEC	ECNEC means the Executive Committee of the National Economic Council
Equity	The portion of the share capital and other investment subordinated to senior debt provided by shareholders of the Private Party.
Expressions of Interest (EOI)	Expressions of interest by potential bidders for a project.
Financial close	The point at which all of the project documentation is signed, all the pre-conditions attached to the project's financing have been met, and the project funding becomes available.
Financing	The source of money required up front to meet the costs of constructing the infrastructure. Financing is typically sourced by the government through surpluses or government borrowing (traditional infrastructure

procurement), or by the private sector raising debt and equity finance (PPPs).

Force majeure — External unpredictable events beyond the control of either party that are construed or defined by a law, policy or the contract. The precise scope of this term varies by jurisdiction, but it typically includes natural disasters or other such extreme events. It also often includes certain man-made events, such as war and terrorist activities.

Funding — The source of money required to meet payment obligations. In a PPP context, it refers to the source of money over the long term to pay the PPP private partner for the investments and operating and maintenance costs of the project. Funding is typically sourced from taxes (in government-pays PPPs), or from user charges (in user-pays PPPs).

Hand-back — The transfer of the project assets, and responsibility for those assets, to the government upon the termination or expiry of the PPP Agreement.

Implementing Agency — Any of the line ministries, attached departments, body corporate, autonomous body of the Federal Government or any organization or corporation owned or controlled by the Federal Government;

Investment decision — The decision as to whether a proposed project is a good project. Is the government willing and able to provide the required funding (after accounting for any user fees, such as road tolls), regardless of how the project is procured?

Limited Recourse — Finance with limited guarantees from the sponsors.

Net Present Value (NPV) — The discounted value of an investment's cash inflows minus the discounted value of its cash outflows. To be adequately profitable, an investment should have a Net Present Value greater than zero.

Most Advantageous Bidder — The bidder identified at the end of the tender evaluation process as being the government's preferred partner to enter into (or enter into final negotiations for) a PPP Agreement.

P3A (or the Authority) — The Public Private Partnership Authority established under the Public Private Partnership Authority Act, 2017 (as amended from time to time).

P3A Act — Public Private Partnership Authority Act, 2017 (as amended from time to time).

P3WP — P3WP means the public private partnership working party established under section 13A of the P3A Act.

Pre-qualification — The act of testing prospective bidders to determine whether they meet the pass/fail qualification criteria in advance of issuing the request for proposals.

Private party — A person who is eligible to bid for a project with an Implementing Agency in accordance with the rules and regulations prescribed under the P3A Act.

Procurement decision — The decision as to the best way of procuring the project. This involves decision-making on questions such as whether the PPP procurement offer better Value for Money than the best practicable public sector delivery model?

Project Brief — A document prepared by an Implementing Agency introducing an initiative for a PPP project describing its rationale and tentative features for the purposes of assessing the initiative's sensibility and suitability for PPP.

Project Concept Proposal — In each case, in the form and in the manner and meeting such requirements as are prescribed from time to time, means a conceptual proposal—(i) received by the Authority from an implementing agency for a qualified project; (ii) received by the Authority from a private party for a qualified project on an unsolicited basis; or (iii) forwarded to the Authority from CDWP for a qualified project.

Project company — The company that acts as the counterparty of the government in a PPP. Also referred to as "Special Purpose Vehicle" (SPV).

PDF	PDF means Project Development Facility established under section 12 of the P3A Act.
Project Evaluation Document	A project document that determines the value of the project and the amount of funds required for financing, and justifies the adoption of the most optimal technical-technological and organizational decision on the implementation of the project.
Project finance	A technique to negotiate and establish the long-term debt financing of a project, where the basis of the loan is the cash flow generated by the project alone.
Project Qualification Proposal (PQP)	In each case, in the form and in the manner and meeting such requirements as are prescribed from time to time under the P3A Act, means — (i) a proposal received by the Authority from an implementing agency for a qualified project; (ii) a proposal received by the Authority from an implementing agency for a qualified project that is prepared and submitted on the basis of a proposal from a private party for a project on an unsolicited basis; or (iii) a proposal forwarded to the Authority from CDWP for a qualified project;
Project Proposal (PP)	The detailed proposal submitted by the implementing agency to the Authority after it has received approval of the project qualification proposal prepared in respect of a qualified project, to be submitted in the form and in the manner and meeting such requirements as are prescribed from time to time;
Public Private Partnership	A legally formalized partnership between a Public Partner and a Private for a certain period, based on the pooling of their resources for the implementation of a PPP project (for the legal definition of PPP under the P3A Act, see Section 2.2 of this PPP Manual)
Public Private Partnership Project	A development project, provision of related services, or both, under a public private partnership arrangement.
Public Sector Comparator (PSC)	The cost estimate (adjusted for risk), from the public perspective, of a project being delivered under a

conventional procurement method. It acts as a benchmark against which to compare the projection of cost estimates for the authority under the PPP option; this is done to determine if the PPP option offers Value for Money (VfM).

Qualified Project

A project undertaken on public private partnership basis that meets any of the following criteria, namely: — (i) support is required for the project in the form of funding from any facility established by the government for the purpose, including the viability gap fund; (ii) a sovereign guarantee is required for the project in accordance with any rules or regulations that may be prescribed under the P3A Act; (iii) project receives funding through the project development facility; (iv) any additional criteria for qualifying projects, as prescribed from time to time under the P3A Act; provided that a project not fulfilling the aforementioned criteria may be deemed as a qualified project if so designated by the P3WP for reasons to be recorded in writing;

Request for Proposal (RFP)

The set of documents issued by the Implementing Agency that set out:

- The basis or requirements for submitting the proposal (which documents and in which format and contents the bidder has to submit)
- The basis of the evaluation criteria for selecting the preferred bidder or awardee
- The PPP Agreement that will be signed with the successful bidder and other annexed information such as forms, templates, complementary information for reference purposes, etc.

Request for Qualifications (RFQ)

The Implementing Agency’s request for qualifications issued to the market with respect to the project, in the event the Implementing Agency decides to do so.

If applicable, the set of documents issued by the Implementing Agency that constitute the basis of the qualification and potentially the pre-selection of candidates (the short list). Qualified (or short-listed candidates) will then be invited to submit a proposal (or to enter into a new phase prior to bid submission, such as a dialogue phase or interactive phase).

The response to the RFQ is the Submission of Qualifications (SoQ). It may also be called the submission of Expression of Interest (EOI).

RMU — RMU means Riks Management Unit established under section 12A of the P3A Act.

Senior Debt — The main form of debt raised by the private party, which is senior to other unsecured or otherwise more "junior" debt, that is, the senior debt generally has first priority for repayment, and the lenders of the senior debt have decision-making powers in priority to the lenders of the junior debt.

Short-listed bidder — Those parties invited to submit a proposal in response to a Request for Proposal (RFP) for a project in the event the Implementing Agency conducts pre-qualification and only allows a limited number of pre-qualified bidders to proceed to the RFP phase.

Submission of Qualifications (SoQ) — The act of the prospective bidder submitting the documents required in order to be qualified, in the event the Implementing Agency decides to engage in pre-qualification.

Subordinated debt — Debt which, by agreement or legal structure, is subordinated to other (senior) debt, allowing those (senior) lenders to have priority in access to amounts paid to the lenders by the borrower from time to time, and to borrower assets or revenues in the event of default. This priority may be binding on liquidators or administrators of the borrower.

Termination payment — A payment made by the government under the PPP contract, following termination of the project agreement. Also known as “termination compensation”.

Unsolicited proposal — A proposal made by a private party to undertake a PPP project. It is submitted at the initiative of the private entity i.e. Private Proponent, rather than in response to a request from the government.

User charges	Payments made by users of the infrastructure, such as tolls in a toll road project.
Value for Money	The benefits relative to the costs of procuring a project using a PPP compared to other procurement options. Commonly referred by its abbreviation Value for Money (VFM).
Viability Gap Funding (VGF)	Support provided by the government to projects for which a feasibility study has found them to be economically or socially justified but not financially viable. Generally, the bidder who bids for a project with the least amount of financial support required from the government is generally accorded certain advantages as per the terms of the RFP.
Weighted Average Capital Cost (WACC)	The WACC is the average cost of all the private financing resources of the project. It is a weighted average of the cost of the equity resources and the cost of debt.

1 PREAMBLE

This manual presents a comprehensive and coherent set of instructions supported by operational guidelines and methodology statements to streamline the process, institutional responsibilities, and decision-making criteria for the identification, preparation and implementation of PPP projects under auspice of the Federal Government of Pakistan.

1.1 Objective

The objectives of this PPP Manual are to ensure that a PPP project:

- is being initiated to meet a public service need and it Is based on an appropriate or optimal technical solution ('Project Identification');
- is duly appraised to assess if it is feasible (both the technical solution and the delivery of the project as a PPP), that the PPP is the best procurement solution, and that it is duly prepared before tendering: this relates to ('Project Appraisal and Preparation');
- has an appropriately structured PPP contract and a well-designed tender process ('Project Structuring and Tender Preparation'):
- is effectively procured or tendered in accordance with the legal and regulatory requirements: ('Tender process and Contract Award'); and
- it is effectively monitored and managed during its contract life: ('Contract Management').

The envisaged result of this process management framework is to maximise the probability of project success in terms of achieving value for money in delivering infrastructure projects and related services in a fiscally sustainable manner by accessing the financial resources and/or expertise of private service providers.

As such the PPP Manual provides a consolidated overview of the necessary procedures and suggested approaches and documents with appropriate quality assurance mechanisms through checks and balances to guide the relevant agencies and provide comfort to investors and lenders on the adequacy of project preparation.

1.2 Scope

The Manual specifically focuses on *Qualified Projects*. The concept of "*Qualified Projects*" was introduced through the Public Private Partnership Authority Act, 2017 (the "**P3A Act**"), as amended. The term has been is defined in section 2(v) of the P3A Act and has been reproduced below for ease of reference:

> *(v) "qualified project" means a project undertaken on public private partnership basis that meets any of the following criteria, namely:-*

(i) *support is required for the project in the form of funding from any facility established by the government for the purpose, including the viability gap fund;*

(ii) *a sovereign guarantee is required for the project in accordance with any rules or regulations that may be prescribed under this Act;*

(iii) *project receives funding through the project development facility;*

(iv) *any additional criteria for qualifying projects, as prescribed from time to time:*

Further Explanation of the concept of Qualified Projects

The distinction between qualified projects and non-qualified projects was introduced into the P3A Act through amendments in 2021. The rationale for this amendment was that, as a policy matter, it would not be optimal for the P3 Authority and its Board to process, evaluate and approve all Federal PPP projects. Approval would be required if, in general, some sort of financial support or guarantee is required from the government to execute the project.

Section 2(v)(i) of the P3A Act is a self-contained mandatory provision in that it clearly stipulates that if an implementing agency or private party requires financial support for a proposed project from any special funding facility established by the government for funding projects, including the viability gap fund, the project would be considered a "qualified project". In accordance with the P3A (Qualified Project Criteria) Regulations, this would also include funding from the PSDP for meeting the viability gap. In such eventuality, the concerned implementing agency shall be required to follow the approvals processes / procedures set out in the P3A Act (as well as the relevant rules and regulations made thereunder).

Section 2 (v)(ii) of the P3A Act provides that a project becomes qualified if sovereign guarantees are required "in accordance with any rules or regulations that may be prescribed under the Act." In accordance with this provision, the P3A (Qualified Project Criteria) Regulations specify that this will apply to sovereign guarantees issued pursuant to the process notified by the Finance Division in this regard. Further, the said regulations also specify that this trigger will not be applicable in certain cases, such as when projects fall within the approvals mandate of certain other entities/regulators, such as PPIB, OGRA, AEDB and the Privatization Commission.

Section 2 (v)(iii) of the P3A Act is similar to Clause (i) in that it is a self-executing provision, which states that if an implementing agency requires financial support for the proposed project from the project development facility (i.e. with respect to preparation of any proposal for a qualified project), the project would be considered a 'qualified project". In such a case, the concerned implementing agency shall be required to procure all necessary approvals as set out in Section 14 of the P3A Act in accordance with the processes / procedures envisaged by the P3A Act as well as applicable regulation(s) made thereunder.

Section 2 (v)(iv) of the P3A Act is a general provision under which any additional criteria may be prescribed for classification of a project as a "qualified project". Moreover, the P3WP is empowered by the proviso to Section 2 (v) to designate any project as a "qualified project" for reasons to be recorded in writing.

It is encouraged though to apply the suggested proceedings in terms of project preparation also to non-qualified projects ensuring an appropriate quality albeit that they will not be subject to the approvals process for *Qualified Projects* set forth under Section 14 of the P3A Act.

It is furthermore to be noted that any PPP initiated by provincial authorities and their respective agencies will generally be regulated under the provincial legislative/regulatory regimes governing PPPs.

1.3 Target Audience

The target audience for these instructions are primarily federal government agencies involved in the development and implementation of PPP projects, including but not limited to:

- Implementing Agencies;
- Public Private Partnership Authority (P3A);
- Risk Management Unit (RMU);
- Public Private Partnership Working Party (P3WP);
- P3A Board
- Central Development Working Party (CDWP); and
- Executive Committee of the National Economic Council (ECNEC)

The Manual is furthermore available for external advisors to guide upon engagement their supporting preparatory activities and transaction advisory services alongside their own expertise and experience, as well as private investors and lenders to inform and comfort them on the adequacy of project preparation and their responsibilities in connection with submitting unsolicited proposals.

1.4 Structure

The Manual firstly introduces in Chapter 2 as a primer the concept of PPP, its main features, modalities, benefits and challenges to provide reference and context for the PPP practitioners. The core of the Manual is the procedural framework in terms of instructions which builds on the legal context provided by:

- PPP Act 2017 and its amendments up to 31.08.2022
- Public Private Partnership Authority Working Party Rules, 2021
- Public Private Partnership Authority (P3WP) Regulations, 2021
- Public Private Partnership Authority (Approvals and Process Flow) Regulations, 2021
- Public Private Partnership Authority (Project Development Facility) Regulations, 2022
- Public Private Partnership Authority (Viability Gap Fund) Regulations, 2024
- Public Private Partnership Authority (Qualified Project Criteria) Regulations, 2023
- Public Private Partnership Authority (Direct Contracting of IFIs as Transaction Advisers) Regulations, 2023
- Public Procurement Regulatory Authority Ordinance 2002 (as amended), and the rules made thereunder.

The institutional setup in terms of the relevant players and their respective role and responsibilities is described in Chapter 3 of this Manual.

The procedural framework is presented in Chapter 4 through step-by-step instructions and outline processes from inception through implementation of PPP projects. For each step the

rationale is presented, its scope, the responsible public entity, its timing and a suggested approach to deliver the task.
To operationalise the procedural framework a range of tools is presented as annexes in terms of templates, outlines, checklists and suggested methodologies to further assist the PPP practitioners in delivering the different tasks.

This Manual shall be updated from time to time to provide additional guidance to regulated entities / implementation agencies. Further, P3A shall endeavor to keep the Manual updated, and shall conduct an annual review for purposes of ascertaining the consistency of the Manual with the legal and regulatory framework. Finally, regulated entities / implementation agencies are welcome to share their feedback by writing to the P3A at m.awais@p3a.gov.pk.

2 PRIMER

The concept of PPP is increasingly applied throughout the world to accelerate infrastructure investments and or to deliver infrastructure more efficiently and more effectively. To harmonize the underlying principles and reflect good practice, it is encouraged to align the approach to PPP with international standards[1]. The main principles are highlighted in this section to generate a shared understanding of the PPP concept.

2.1 What is PPP?

A PPP typically has the following characteristics:

- Concerns the long-term engagement of a private partner by the government to deliver and or manage public infrastructure in accordance with government specifications that are set following thorough preparation with due care for private sector interests;
- The private sector is responsible for designing, constructing and/or operating the project and takes on a substantial portion of the associated project risks in relation to finance, construction and operation under the assumption that they are better able to manage these risks;
- During the operational life of the project, the public sector's role is to monitor the performance of the private partner and enforce the terms of the contract;
- The private sector's costs may be recovered in whole or in part from charges related to the use of the services provided by the project, or may be recovered through payments from the public sector based on extend of compliance with performance standards set out in the contract;
- Often the private sector will finance upfront the majority of the project's capital costs, although this is not always the case.

It will often be necessary to build, rehabilitate, or add to existing assets in order to meet the infrastructure needs of the economy and users. However, an important part of the infrastructure PPP concept is that a PPP is focused on outputs, and the outputs of the PPP are infrastructure services, not infrastructure assets.

The reason for the focus on outputs and services rather than assets is to encourage efficient use of public resources and improved infrastructure quality. The private partner is not constrained by input specifications and can design the project to achieve for example the best whole-of-life costs benefits.

A PPP brings the public and private sectors together as partners in a contractual agreement, for a pre-defined period (e.g. 10 year, 30 years, etc.) keeping in view also the life of the

[1] For this purpose, one of the generally accepted source of information is the PPP Certification Guide, generally acknowledged as the universal body of knowledge on PPP

INTERNAL. This information is accessible to ADB Management and staff. It may be shared outside ADB with appropriate permission.

infrastructure assets used to provide the services. The private partners provide specified services (often through utilizing the public assets/infrastructure) and, in return, the public sector either pays for those services or grants the private partner the right to generate revenue from the project (which may or may not be subject to revenue sharing arrangements with the public partner). For example, the private partner may be allowed to charge user fees or receive revenue from other aspects of the project or receive periodic payments from the public partner for uninterrupted delivery of the outputs.

2.2 Legal Definition of PPP

The P3A Act as per section 2 (t) provides for the following definition of PPP:

> *"public private partnership" means a commercial transaction between an implementing agency and a private party in terms of which the private party-*
>
> *(i) performs part of an implementing agency's functions on behalf of it;*
>
> *(ii) assumes the responsible use of public property for a project;*
>
> *(iii) assumes substantial financial, technical and operational risks in connection with performance of certain functions of the implementing agency or the responsible use of public property; or*
>
> *(iv) receives a benefit for performing the implementing agency's functions or from utilizing the public property, either by way of —*
>
> *(a) consideration to be paid by the implementing agency from its budget or revenue; or*
>
> *(b) charges or fees to be collected by the private party from users or customers of a service provided to them; or*
>
> *(c) a combination of such consideration and such charges or fees.*

2.3 PPP Modalities

PPP projects involve a combination of the following components which can be attributed to the private party:

- **D**esign
- **B**uild (Construction)/Rehabilitation
- **F**inance
- **M**aintain
- **O**perate
- **T**ransfer asset back to public authority

There are a number of different PPP modes and variants, and the suitability of the various modes will depend on the nature of the project. This will depend particularly on the nature of the service or output required, which in turn depends on the sector and sub-sector, and the political and economic climate in which the PPP will be carried out.

The key aspects that define the PPP model are:

- Does the PPP involve building new assets to provide the service (capital expenditure project), or are the required services for operations and management only?
- Which roles will the private sector carry out? For example, who will provide finance? Who will design and construct?
- Who will have ownership/control of the assets during the PPP, and at the conclusion/termination of the concession period?
- How are the various project risks allocated between the private and public partners?
- What will be the major revenue source for the project? For example, will it be from charges to users (e.g. ticket sales, direct tolls, user charges, etc.), or payment from Government (e.g. availability payment, annuity, subsidy, etc.)?

The most common modes of PPP are:

1. **User Charge based Infrastructure PPP**: A contractual arrangement between the government and a private partner for a given period of time whereby the private entity is responsible for the design, construction, finance, operations and maintenance of an infrastructure facility (DBFMO) and the provision of corresponding public service. The private entity is authorized to levy user charges to recover its costs. If these user charges where tariffs are typically set by government, are not sufficient, there is a so called Viability Gap.
2. **Government Payment based Infrastructure PPP**: A contractual arrangement between the government and a private partner for a given period of time whereby the private entity is responsible for the design, construction, finance, operations and maintenance (DBFMO) of an infrastructure facility and the provision of corresponding public service. To recover its costs the private entity receives a periodic fee from the government based on predefined performance criteria.
3. **Government Payment based Service PPP (Management Concession):** A contractual arrangement between the government and a private entity for a given period of time whereby the private entity is responsible for the operations and maintenance of an infrastructure facility and the provision of corresponding public service. To recover its costs the private entity is receives a periodic fee from the government based on predefined performance criteria.
4. **User Charge based Service PPP (Operations Concession):** A contractual arrangement between the government and a private partner for a given period of time whereby the private entity is responsible for the operations and maintenance of an infrastructure facility and the provision of corresponding public service. The private entity is authorized to levy user charges to recover its costs.

There are some further structures possible for the government to engage the private sector that are slight modifications from these main modes of PPP. The specific structure for a PPP should result from a careful consideration upon preparation of the most appropriate allocation of responsibilities and risks balancing value for money, bankability and fiscal affordability.

Nomenclature	Description
BOT	Build Operate Transfer and essentially a synonym for DBFMO typically with user charges
RTO	Rehabilitate Operate Transfer and essentially similar to a BOT/DBFMO though involving a rehabilitation rather than a greenfield construction
BOOT	Build Operate Own Transfer, similar to a BOT albeit with legal ownership also transferred to the private sector for a period of time.
BTO	Build Transfer Operate means a contract to build a facility and after the completion of the constructed facility, the Private Partner shall transfer the legal ownership to the government and has the right to commercially operate such facility for a fixed term
Affermage	Essentially a variant of a service PPP, under which the Private Partner is responsible for operating and maintaining the utility but not for financing the investment. The Private Partner retains the operator fee out of the receipts and pays to the awarding authority an additional surcharge from customers to go towards investments that the awarding authority makes/ has made in the infrastructure.
Lease	Similar to an Affermage, though in a lease the payment to the authority tends to be fixed irrespective of the level of tariff collection that is achieved and so the Private Partner takes a risk on bill collection and on receipts covering its operating costs.
Joint Venture/ Institutional PPP	Refers to the ownership of the Project Company involving also an equity share from government. Can be applied to any type of PPP arrangement and qualifies only as a PPP if fulfills the requirements listed under the definition of "public private partnership" under the P3A Act (see section 2.2 above).

2.4 PPP Structure

The P3A Act as per section 2 (u) defines a PPP Agreement as:

> *a written agreement between an implementing agency and a private party for implementation of a project and any other agreement subsidiary or incidental to it*

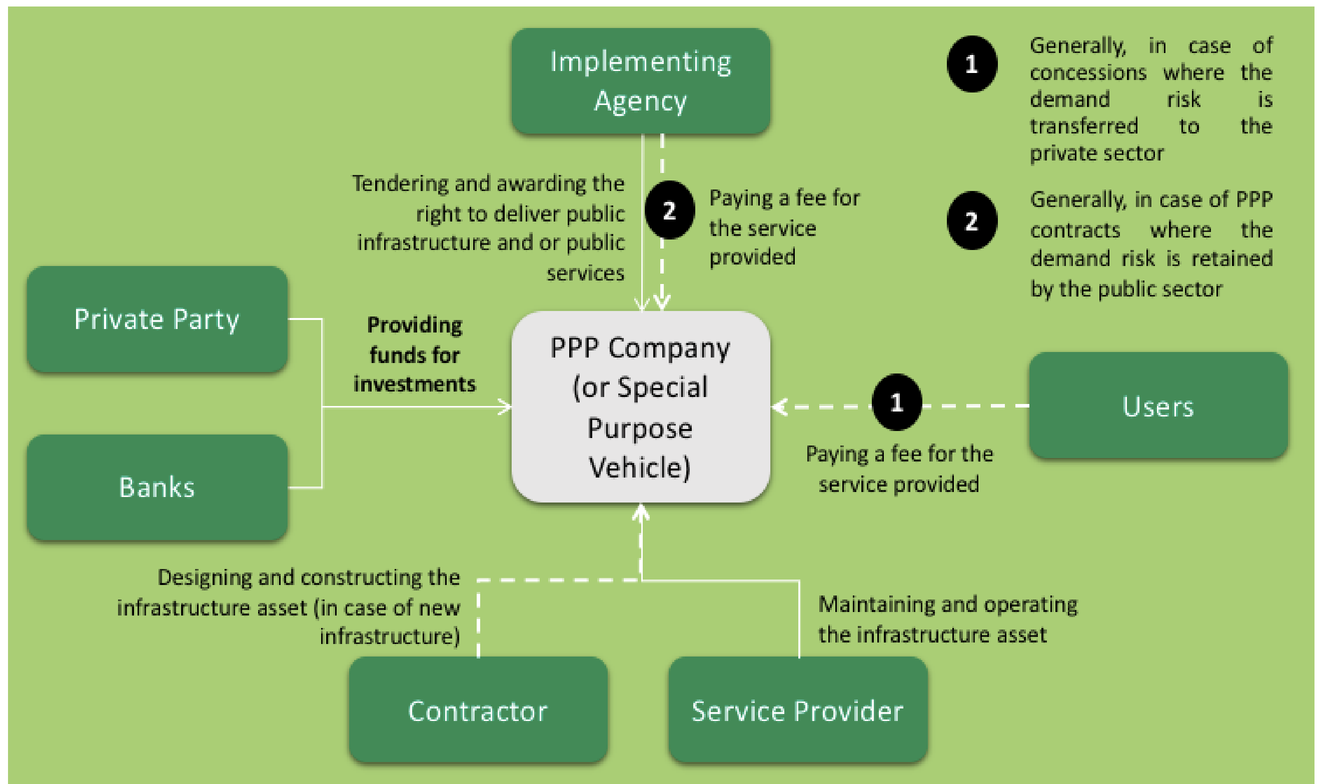
A private party is defined in section 2 (m) defined as:

> *a person who is eligible to bid for a project with an implementing agency in accordance with the rules and regulations prescribed under this Act*

Further, in accordance with Section 16(1) of the P3A Act, in general a special purpose vehicle (SPV) or project company will be established by the selected bidder for the purpose of fulfilling the contractual arrangement.

The SPV is owned by investors who are its shareholders that invest equity capital. Besides equity from shareholders, the SPV receives funding largely from banks. Usually banks provide most of the funding (sometimes up to 60-80% of the required funding).

Furthermore, as a measure to mitigate project related risks, SPVs will normally subcontract its main responsibilities related to construction and operations to third parties.



2.5 PPP Benefits

Well-structured PPPs, where the private party can determine how a service can best be provided, where risks are well allocated, and where the project is awarded through competitive procurement, can offer better value-for-money than traditional delivery by government. Some of the main benefits private partners can bring are:

- Construction of projects on time and on budget
- Efficient and effective management of the entire project
- Development of innovative ways of delivering services
- Better use of appropriate technologies
- Lifecycle optimization (better relationship between design and construction, and operation and maintenance over time)
- Better exploitation of direct and secondary project assets
- Private financing and the associated due diligence
- Better delivery capacity

PPPs are commonly pursued to accelerate infrastructure development and bringing forward related socio-economic benefits by tapping private financing resources and to increase value for money through private sector efficiencies in the delivery of public services.

By involving a private partner the project can often be delivered in a more efficient and cost effective manner than by the government or a State-Owned Enterprise on their own. This is because if the PPP is well-structured, the private partner may find more innovative ways of delivering it, and have strong financial incentives to do the maintenance and operations better and more efficiently. Involving a private partner can also make financing available where public funds are limited.

Although the government can almost always borrow money at better rates (more cheaply) than private firms, private firms can generally design, operate and maintain infrastructure and services more optimally than the government[2]. In well-structured PPPs the additional benefits that private firms bring usually outweigh the cheaper costs of public financing. This has been demonstrated by ample empirical research comparing the delivery of projects and costs of corresponding services under a PPP with conventional delivery schemes.

2.6 Potential PPP Limitations

The use of PPP may have certain limitations compared to a traditional procurement approach, most notably:

- **Perceived high funding costs**; the use of private finance is often perceived as more costly than public borrowings. This comparison is not quite fair as normally the benchmark cost of public borrowings does not include a risk premium based on the project's risk profile.
- **Reduced public sector flexibility**; the long-term nature of contracts and related securities for capital providers implies that contracts are relatively rigid. Changes need to be carefully managed in view of their financial consequences. In traditional procurement the public sector has more flexibility to respond to future developments (e.g. changes in policy, legislation, technology, demographics, economics)
- **Transaction costs**; preparing and tendering PPP transactions properly make take more time and may require more specialized resources than traditional procurement, primarily due to the need:
    - to engage expert advisers for the period of project preparation and procurement and ongoing expert advice to assist in the government's management of the contract over its operational life which tends to be more demanding than for traditional projects particularly given the financial and legal complexities;
    - for Tender Documents to
        - commonly, consider both the upfront design and construction of an infrastructure facility, together with the ongoing operation of the facility to provide services, and maintenance and refurbishment of the facility over time;

[2] Governments can often borrow more cheaply because their ability to repay is enhanced by their ability to raise taxation revenues from businesses and citizens

    - consider the mechanics of dealing with potential change events (e.g. a growth in demand for services, escalation of costs) that are likely over the duration of a long-term contract; and
    - in relevant PPPs, also incorporate private finance and the security and risk mitigation measures required by the Private Sector Partner's debt financiers to make the project ''bankable"; and
- to establish and resource a Contract Management Team over the life of the contract, which is typically more cumbersome than for traditional delivery schemes because of the need for monitoring compliance with performance requirements.

However, it is noted that the marginal time and resources expended ex ante are generally more than outweighed by the benefits accrued during the course of the PPP arrangement. Further, Implementing Agencies can consider submitting for approval Project Concept Proposals (PCPs) as discussed below in Chapter 4, for purposes of getting approval of the project concept, before incurring the costs of project development – thereby mitigating the limitations pointed out above.

2.7 Characteristics of Successful PPPs

To ensure that the benefits of PPP outweigh its drawbacks it is of the utmost importance that only suitable projects are procured as PPPs and that these are appropriately prepared, competitively tendered and effectively managed. Suitable projects typically have a range of characteristics as described in the table below

Characteristic	Description
Opportunity for risk transfer	A defining characteristic of a PPP arrangement is the ability to allocate project responsibility and risk to the party best positioned to manage it. Achieving value for money on a PPP project requires a well-managed scope to allocate appropriate risks to the private sector with the aim of optimizing risk allocation in the partnership.
Whole-of-life cost certainty	Improved efficiencies can be realized where a project can allow for the full integration of planning, design, construction and ongoing service delivery (including operational, lifecycle maintenance and refurbishment) to be the responsibility of a single party.
Long term	PPP arrangements tend to be more suitable for projects where Government is willing to contract to the private sector for the long term (generally between 3 and 49 years). This enables the benefits of efficient risk transfer and a whole-of-life cost approach to be delivered.
Clear and measurable outputs	Projects where the output requirements are clearly understood by the Government and can be readily measured are likely to be viable under a PPP model as these measurable outputs can be translated into performance contracts. This also allows for payment mechanisms to be structured on the basis of these outputs and the alignment of financial incentives to key performance indicators.

Characteristic	Description
Innovation	Larger projects tend to be sufficiently complex and often require more innovative approaches to achieve value for money (in terms of asset and service design, technology and/or delivery).
Market Appetite	The project needs to be bankable and create certainty and a genuine commercial opportunity to attract an appropriate number of private sector parties and allow for effective and competitive tender process.
Additional commercial opportunities	The private sector may favor additional commercial opportunities (e.g. retail) as a result of the project that could allow them to realize revenue streams earlier in the project. For example, certain sectors like airports can offer additional commercial opportunities like duty-free stores, where the private party can sell additional services and goods to end users. However, additional commercial development, which may be non-core, can add to the complexity of the PPP arrangement.
Bundling of contracts	A PPP arrangement can be an effective delivery model where the Government is required to provide a service or capability that depends on a number of separate contracts. PPPs can combine related services and an asset into a single long-term contract. This can add to complexity, particularly as an increased number of client stakeholders may be involved.

2.8 Resilient Infrastructure PPPs

It is P3A's policy to give specific attention to resilience in view of Pakistan's vulnerability to a wide range of natural hazards, particularly flooding, cyclones, drought, extreme heat waves, landslides, wildfire, and earthquakes. The objective of this guidance is to ensure that implementing agencies incorporate resilience throughout all phases of PPPs—from project screening to design, appraisal, structuring, tender, and implementation—and to maintain critical functions during all hazard response stages. This goal aligns with global benchmarks for climate-resilient development, notably the Sendai Framework's Target D. This target seeks to significantly lower disaster-related damage to vital infrastructure and minimize interruptions to essential services such as health and education, by enhancing their resilience by 2030.

2.9 PPP and Gender Equality

Gender equality is an integral part of inclusive growth and is pivotal to the government's PPP agenda particularly in the context of post-pandemic economic recovery. If infrastructure projects take gender considerations into account in their design and structure, they can meet the differing needs and priorities of men and women that stem from different roles and responsibilities in their households, communities, and societies. It would also maximize benefits of each project as more users would be captured, which leads to more stable public services provision. As a result, more projects can maximize value for money and build investors' confidence, which could further accelerate the pace of infrastructure development.

However, not all PPP projects have gender-inclusive features. Projects without gender considerations may affect men and women differently, and not positively in some cases. Failure to consider gender issues may increase the risk of exacerbating gender inequality. Consideration of gender issues creates opportunities to enhance project outcomes and to promote gender equality. A guidance note on addressing gender issues and incorporating a gender-sensitive lens into the feasibility study (PQP stage) of a PPP project is annexed as **I (A)**, whereas, certain performance indicators and provisions, obliging the private party to comply with Pakistan's national gender laws/ policies, which may be drafted into the PPP Agreement/ Contract are annexed as **I (B)**.

For instance, risks of gender-based and sexual violence can increase with labour influx and civil works brought in through PPP arrangements of infrastructure. In addition, if infrastructure does not consider usability by women, it may constrain women's access and significantly undermine the anticipated and desired socioeconomic benefits.

Gender-specific issues are to be explicitly addressed upon project preparation as part of the social impact assessment and any required measures to ensure no material adverse effects from the project on gender equality are to be incorporated in the specifications for the PPP and or other contractually imposed requirements for the private partner.[3]

3 Institutional Framework

The key institutions at the Federal level involved in development and approval of a PPP project are as follows:

1. **Implementing Agency**
2. **Private Party**
3. **Central Development Working Party**
4. **PPP Authority**
5. **PPP Working Party**
6. **Board of Directors of the PPP Authority**
7. **ECNEC**
8. **Risk Management Unit**
9. **Project Team; and**
10. **Transaction Advisor.**

3.1 Implementing Agency

The P3A Act defines Implementing Agency as

> ”*any of the line ministries, attached departments, executive departments, sub-ordinate offices, body corporate, autonomous body of the Federal Government or any organization or corporation owned or controlled by the Federal Government*.”

Implementing Agency (IA) is the government contracting authority and public sponsors that enters into the PPP agreement with the private party.

The key responsibilities of IAs are provided under Section 13 of the P3A Act, both with respect to qualified and non-qualified projects.

Generally, the functions performed by the IA will include the following:

1. Identification of the project
2. Preliminary analysis of the need, demand and other baseline aspects for the preparation of the Project Concept Proposal (PCP)
3. Preparation and submission of PCP to P3A (optional)
4. Responding to P3A’s queries and request for additional information related to PCP
5. Preparation and submission of application for project development facility (PDF) funding, if required
6. Procurement and selection of Transaction Advisors (TA) for undertaking project development, transaction structuring and bid process management
7. Analysis of PPP suitability of the project, financial feasibility, assessment of environmental and social impacts, risk allocation, identification of the PPP transaction structure etc. required for the preparation of the Project Qualification Proposal (PQP)

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8. Preparation and submission of PQP to P3A, including for projects initiated by the Implementing Agency itself, as well as for those initiated by a private party through an unsolicited proposal
9. Responding to P3A's queries and request for additional information related to PQP
10. Preparation and submission of application for viability gap funding (VGF) to P3A, if required for the project
11. Analysis required for finalisation for project feasibility, development of bid documents and drafting of PPP Agreement
12. Preparation and submission of Project Proposal (PP) to P3A and ECNEC (if applicable)
13. Management of the bid process and selection of the Private Party
14. Submission of application for approval of variations (if any) in the PPP Agreement, post selection of the Private Party
15. Execution of the PPP Agreement with the Special Purpose Company (SPC) formed by the Private Party for this purpose
16. Management of the PPP Agreement during its tenure
17. Making contractual payments to the SPC and receiving contractual payments from the SPC, as the case might be
18. Monitoring and management of the performance of the SPC; and
19. Taking handover of the Project assets and facilities at the expiry of the PPP Agreement.

3.2 Private Party

The P3A Act defines Private Party as

> *"a person who is eligible to bid for a project with an implementing agency in accordance with the rules and regulations prescribed under this Act.*

In general, Private Party refers to a private sector entity. For the purpose of this manual, Private Party refers to the private sector entity that enters into (or forms an SPV to enter into) the PPP Agreement with the IA for the purpose of implementing the PPP project, governed by the terms and conditions of the PPP Agreement.

The key responsibilities of the Private Party may include the following:

1. Preparation and submission of PCP (in case of an unsolicited offer)
2. Responding to P3A's queries and request for additional information related to PCP
3. Preparation and submission of PQP to P3A (in case of an unsolicited offer)
4. Responding to P3A's queries and request for additional information related to PQP
5. Submission of the technical and commercial offer to the IA, either on unsolicited basis or in response to a bid process undertaken by the IA
6. Incorporation of the SPC for entering into the PPP Agreement with the IA
7. Raising debt and investment of equity adequate to finance the construction and operationalization of the Project
8. Entering into financing agreements with debtors and investors
9. Procuring all required approvals and permits that are required for the construction, operations and maintenance of the project

10. Complying with legal and regulatory requirements, environmental and social safeguards and other conditions that are applicable to the project
11. Construction, operations and maintenance of the project in line with the terms and conditions of the PPP Agreement
12. Ensuring achievement of minimum service levels and key performance indicators specified in the PPP Agreement
13. Making contractual payments to the IA and/or receiving contractual payments from the IA; and
14. Handover of the project assets and facilities to the IA at the expiry of the PPP Agreement.

3.3 PPP Authority

PPP Authority (P3A) refers to the Authority established by the Federal Government in accordance with the P3A Act 2017 for carrying out the purposes and objectives of the P3A Act. According to the P3A Act, the Authority may take such measures and exercise such powers as may be necessary for promoting and facilitating realization of the concept and methods of public private partnership.

The P3A Act assigns the following responsibilities for P3A:

1. providing advisory services in the manner prescribed, either directly or by engaging such international or local consultants as may be deemed appropriate, to implementing agencies, provincial or other governments within Pakistan and entities owned or controlled by such governments, or to such other entities as may be determined by the Board, and may charge fees for the provision of the aforesaid services;
2. ensuring value for money by conducting an analysis to evaluate qualified projects in the manner prescribed;
3. conducting appraisal and project risk analysis for qualified projects, including with respect to legal risk and receive and take into consideration the overall fiscal risk assessment and view submitted by the risk management unit for qualified projects;
4. assessing funding requirements, excluding the project development facility, taking into account such assessment undertaken by the risk management unit;
5. assessing funding requirements with respect to the project development facility;
6. subject to any rules or regulations made under the P3A Act, advising, facilitating and supporting, as needed, implementing agencies to develop and structure qualified projects;
7. prescribing and receiving fees and charges;
8. standardizing contractual provisions and develop sector specific provisions and templates including a model public private partnership agreement for projects;
9. interacting, collaborating and liaising with international agencies.

Specifically, with respect to the PPP development and approval process, the P3A is required to perform the following tasks:

1. Receipt and appraisal of PCP submitted by an IA or Private Party or CDWP, as the case might be
2. Recommendation for approval, rejection, conditional approval of PCP to the P3WP
3. Receipt and appraisal of application for PDF
4. Approval or rejection of PDF application
5. Management of disbursements from the PDF
6. Management of the corpus of the PDF
7. Receipt and appraisal of PQP submitted by an IA or Private Party or CDWP, as the case might be
8. Recommendation for approval, rejection, conditional approval of PQP to the P3WP
9. Approval or rejection of VGF application
10. Management of disbursements from the VGF
11. Management of the corpus of the VGF
12. Receipt and appraisal of Project Proposal submitted by an IA
13. Recommendation for approval, rejection, conditional approval of the Project Proposal to the P3A Board
14. Appraisal of requests for variations in the PPP Agreement post award to the selected bidder.
15. Facilitate in obtaining project-related approvals from CDWP and, where applicable, ECNEC.

3.4 Board of Directors of the PPP Authority

Pursuant to Section 8 of the P3A Act, the Board of Directors of the PPP Authority (P3A Board) is responsible for, *inter alia*:

1. Approval / rejection of Project Proposals, based on the recommendations of the P3A;
2. Approval / rejection of PDF applications;
3. Approval / rejection of VGF applications; and
4. Allowing renegotiation, if necessary in respect of qualified projects, of public private partnership agreements or contracts to the extent prescribed.

3.5 PPP Working Party

Section 13A of the P3A Act 2017 provides for the establishment of the PPP Working Party (P3WP). The P3WP has the following responsibilities as part of the PPP development and approval process:

1. Appraisal of PCP and consideration of recommendations of P3A regarding the same
2. Approval / rejection of PCP, in line with the P3A Act and this PPP Manual
3. Appraisal of PQP and consideration of recommendations of P3A regarding the same; and
4. Approval / rejection of PQP, in line with the P3A Act and the rules and regulations made thereunder.

3.6 Central Development Working Party

For consistent in planning of projects at a federal level, Qualified Projects also need approval of the Central Development Working Party (CDWP) pursuant to Section 14(1)(b) of the P3A Act, which shall determine the consistency of the proposed project with sectoral and national development plans.

3.7 Executive Committee of the National Economic Council (ECNEC)

In addition to the CDWP, in the event the project cost exceeds PKR 10 Billion, the project shall also require approval of ECNEC (in accordance with the P3A's Approvals & Process Flow Regulations). Specifically, the ECNEC has the following responsibilities as part of the PPP approval process:

1. Consideration of Project Proposals for projects costing more than PKR 10 Billion;
2. Consideration of recommendations of the P3A and P3A Board; and
3. Approval or rejection of the Project Proposal in line with its mandate.

3.8 Risk Management Unit

Risk Management Unit is an entity established through the P3A Act 2017, and is managed, controlled and administered by the Finance Division of the Federal Government. According to the P3A Act, the risk management unit shall be responsible for fiscal oversight and for evaluation of fiscal and contingent liability exposure for all qualified projects.

Specifically, the RMU will have the following responsibilities as part of the PPP development and approval process:

1. Review of the risk allocation proposed for the PPP project under development, as part of the PQP to identify and assess the risks allocated to the IA, and to estimate the potential fiscal impacts of the risks allocated to the IA;
2. Recommend changes in the risk allocation to ensure that the risks that are retained by the IA have fiscal impacts within the maximum levels determined by the Ministry of Finance;
3. Provide inputs to risk assessment undertaken by the P3A and maintain project risk registers;
4. Prepare Fiscal Affordability Assessment (FAA) report outlining project and portfolio fiscal affordability and Value for Money (VfM);
5. Prepare Contingency Budget Estimates against contingent liabilities of the present value of the PPP portfolio allocating up to 4% of the annual PSDP indicative budget ceiling and communicate the same to MoPD&SI;
6. Review of the contractual commitments and direct liabilities of the IA, arising out of the proposed PPP Agreement to ensure that such can be met by the IA from its financial / budgetary resources;
7. Review of the variations in the PPP Agreement, post award to the selected bidder, where applicable; and
8. Monitoring of the fiscal risks for the IA, during the tenure of the PPP Agreement.

3.9 Transaction Advisor

The transaction advisor is appointed by the IA for supporting the preparation and procurement of the PPP project. Generally, keeping in view the complexity of PPP projects, it is advised that Implementing Agencies should consider engaging transaction advisors for project preparation, development and procurement. In particular, the transaction advisor is tasked with:

1. Carrying out of a comprehensive feasibility study of the PPP project, covering all aspects of the project: technical, economic, financial, social, environmental, legal, institutional, PPP rationale (value for money) and PPP structuring;
2. Preparing of bid documents (request for qualification, request for proposals, PPP agreement, output specifications) in the absence of standard bid documents or in the case where the standard bid documents will not apply to the specific project;
3. Assist the IA with procurement and contracting process (answering questions from bidders, organization of pre-bid conferences, negotiation with bidders, evaluation of applications and bids, among others); and
4. Preparation of contract management framework.

Due to the multidisciplinary nature of the transaction advisory services, the Transaction Advisor generally consists of a consortium of specialized consulting firms and advisors (technical, legal, financial).

Potential funding sources for transaction advisors—to be determined on a case by case basis—include IA budgets, PDF (see P3A's PDF Regulations) and/or grants from international donor agencies. Further, pursuant to the Public Private Partnership Authority (Direct Hiring of IFIs as Transaction Advisers) Regulations, 2023, under certain conditions specified therein, IFIs may be engaged for providing transaction advisory services.

4 PROCESSING QUALIFIED PROJECTS

The procedural framework for Qualified Projects in terms of process, institutional responsibilities and gateways is regulated by the P3A Act and the P3A Approvals and Process Flow Regulations, 2021 and depicted below.

GATEWAY REVIEWS TO CHECK AND APPROVE THE DELIVERABLES

DELIVERABLES

PHASE

IA

RMU

P3A

P3A BOARD

P3WP

CDWP/ ECNEC*

*[If project value exceeds PKR 10 bn]

1 CONCEPT/ IDENTIFICATION

PCP

2 TRANSACTION PREPARATION/ DEVELOPMENT

PQP

PP

If terms materially deviate from PP

3 TRANSACTION IMPLEMENTATION/ PROCUREMENT

BID DOCUMENTS

PPP AGREEMENT

4 PROJECT IMPLEMENTATION

PPP VARIATIONS

PPP PROJECT PROGRESS

FISCAL REPORT

PROGRAM PROGRESS

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The different deliverables that are to be prepared to identify, prepare, procure and implement a PPP and respective gateways i.e. review and approvals to ensure adequacy of findings and conclusions, will be successively explained in this section.

4.1 Project Concept Proposal

Why Submit PCPs?

The Project Concept Proposal (PCP) essentially initiates the PPP development process. The development of a PPP requires significant resources from the government. To ensure that these resources are spent efficiently and effectively, it is important that PPP initiatives are likely to be successful in terms of delivering value for money. For this purpose, any initiative for a prospective PPP needs to reflect that the proposed project meets a public service need, is in line with government's priorities and is suitable for PPP.

The objective of this step is to prepare the necessary information to enable the assessment of a prospective initiative as sensible and likely to be successful as a PPP and that it is worthwhile to spend resources on its further development.

Who Can Submit a PCP?

Section 2: Definitions (p) of the P3A Act defines the PCP as *meaning, in each case, in the form and in the manner and meeting such requirements as are prescribed from time to time, means a conceptual proposal:*

1. *Received by P3A from an implementing agency for a qualified project,*
2. *Received by P3A from a private party for a qualified project on an unsolicited basis, or*
3. *Forwarded to P3A from CDWP for a qualified project.*

It is recommended that in the event the PCP is submitted by an entity other than the Implementing Agency (i.e. by the private party or the CDWP), the Implementing Agency is invited as part of the approvals process to provide its review/comment/endorsement. This will allow early alignment of the proposed project concept with the IA's strategic priorities taking into account that the IA is ultimately responsible and accountable for the results of the project in terms of its specifications and performance.

When to submit a PCP?

The P3A Act as per section 13(2)(d) furthermore stipulates that "*if deemed necessary or appropriate by the implementing agency, develop and submit to the Authority a project concept proposal for the P3WP's approval or otherwise, prior to developing and submitting the project qualification proposal for approval to the Authority, provided, that it shall not be a requirement to submit a project concept proposal before submitting the project qualification proposal for approval to the Authority"*

This is reiterated in the P3A Process Flow & Approvals Regulations that *"An implementing agency may, but is not required to, submit a project concept proposal to the Authority in connection with a qualified project in order to determine whether the preliminary concept and rationale of the project is consistent with the national development framework and is*

sufficiently sound, so as to justify undertaking the preparation of a project qualification proposal. For the avoidance of doubt, submission of a project concept proposal is optional and does not constitute a necessary step in the approvals process for qualified projects".

While PCP submission is optional, it is recommended however, that for projects of sufficient cost and complexity, PCPs be submitted for approval. This is because to further develop a project concept, significant public resources are required, and it is considered good practice to carefully consider whether such use of resources is warranted in terms of the project being sensible and potentially suitable for PPP based on available information. Furthermore, at this preliminary stage it may not be possible to confirm whether a project is a qualified project i.e. requiring government resources or not and preparing a PCP might help in this respect. Further, approval of the PCP may support the Implementing Agency if it intends to apply to the P3A for availing funding from the Project Development Facility (PDF) for preparation of the PQP.

What are the submission requirements for a PCP?

As per the P3A Regulation on Process Flow and Approvals, a PCP shall include the following:

1. *a description and technical overview of the project including the sectoral background and fit with national plans, project rationale and proposed delivery model;*
2. *a statement highlighting the unmet public need the project intends to address and details of project outputs;*
3. *a preliminary analysis of the economic viability of the project including, without limitation, the estimated project cost and potential means of recovery of such costs;*
4. *a brief description and explanation of legal, regulatory, environmental and social impacts (including gender related issues) anticipated as a result of or in connection with the project; and*
5. *such related documentation or information as the Authority may, from time to time, require.*

The environmental impact section is to include rapid climate and disaster risk screening In the annex to this Manual a template for the PCP is provided with further explanation on the required information.

How to submit a PCP?

As indicated the PCP can be submitted by an IA, a private party with an unsolicited proposal or the CDWP.

The preparation of a PCP is to be done in principle by staff of the IA. The information to be provided can be based on (i) previous or related studies including demand analysis, project scoping options, and so on, (ii) data already available within the IA from prior projects including unit rates for cost estimates, (iii) data from reference projects in Pakistan or abroad i.e. projects that are at least to some extent comparable with the project at hand including possible PPP modalities and involved private partners, and (iv) data from relevant development plans if available including needs analysis and strategic priorities.

It is recognized that this may be challenging in view of the possible limited expertise with PPP within the IA. Support from P3A may be sought for any queries on PPP or if available technical

assistance from development partners. It is furthermore encouraged that the IA has in place PPP Units that have been trained at least in the fundamentals of PPP.

The principle is that external advisors are to be retained only if and when the project initiative makes sense and when PPP appears to be suitable. Otherwise, resources may be spent unnecessarily on identifying PPP projects that are not considered sensible from a strategic or economic perspective or are not suitable for PPP. However, the Implementing Agency may consider engaging short-term consultants/advisors for PCP preparation.

PCP Review and Approvals

It is good practice to check through a gateway review the PCP submission to confirm that the project initiative as proposed by the IA indeed makes sense and is suitable for PPP. This review is relevant because an IA may be intrinsically motivated to pursue a PPP project to achieve its development objectives and may consequently be subject to optimism bias overlooking possible constraints, impediments or conflicting priorities in its proposal. Also lagging knowledge and understanding of PPP and its underlying principles may lead to proposals for project concepts that do not have the right features for a suitable PPP.

The PCP screening in terms of review and approval is done in 2 steps:

1. P3A will assess the adequacy of the PCP and its compliance with decision criteria. If satisfactory, the PCP will be forwarded to P3WP for final review and approval. If unsatisfactory, the PCP will be returned to the IA for addressing any issues and/or providing further clarifications and/or the recommendation to reconsider the use of PPP for the project concept as other delivery schemes might be more suitable.
2. If P3A is satisfied, the PCP will be presented to P3WP with a recommendation from P3A. P3WP will review the PCP, and approve, reject or return the PCP with comments.

No specific formal timelines are provided by the P3A regulation on Process Flow and Approval, though the following timelines are advised for the timely screening of the PCP:

1. P3A response to PCP shall be provided within [1 month] after receipt of PCP and similarly to any revisions if applicable.
2. P3WP response shall be provided within [2 months] after receipt of complete/final PCP by the P3A.

The screening process is to confirm the sensibility of the project concept and its suitability for PPP. This is substantiated with the following decision criteria:

Criteria	Description	Rationale
Essential government infra/service	Infrastructure or services that government is traditionally expected to provide (i.e. a public sector responsibility)	PPP program has been initiated to improve public infrastructure and related services and therefore any PPP initiative needs to contribute to a more effective and efficient delivery of government responsibilities
National strategic priority	GoP strategic priority at the Federal level	To tentatively confirm the strategic relevance of each and every initiative for a PPP in terms of contributing the government's strategic priorities

Criteria	Description	Rationale
		including confirmation of resilience of and through the project and gender equality or women empowerment.
Developmental relevance	Alignment with development goals of GoP and development partners (social, environmental, economic)	To tentatively indicate the merits of each and every initiative for a PPP in relation to the costs for implementing the project
Suitability for PPP	PPP track record in sector; business case / available funding; size, replicability	To tentatively indicate that the PPP mechanism is likely to deliver value for money in terms of a more effective and efficient manner than other delivery schemes and that the PPP is likely to meet the requirements of investors and lenders within the government's fiscal capacity
Likelihood of PPP project success	IA/political willingness; IA capacity; project readiness; alignment with development partners	To tentatively indicate that the IA is willing and able to manage the further development of the project.

These explicit decision criteria will ensure a rationalised and systematic screening process and minimise the risk of arbitrary and politicised decision making.

In case of constraints to the capacity for project development, these screening criteria will be used to prioritise the respective project concepts. Rather than a pass-fail evaluation, the respective projects will be scored in terms of level of compliance with the criteria.

For this purpose, P3A will use a PCP Screening Template as provided in the Annex to ensure a consistent approach, which will be upon satisfactory completion, presented to P3WP, in order to aid their determination of PCP approval. If the information is missing and or not complete for purposes of assessing against the criteria, P3A will request IA for further information.

If upon review of P3A recommendation and assessment, P3WP requires further information or has a different opinion, a response will be provided to IA with specific reference to the element of non-compliance.

4.2 Project Qualification Proposal

Why Submit a PQP?

Whereas the PCP provides for a preliminary reflection on the project for its sensibility and suitability for PPP, the Project Qualification Proposal (PQP) aims to assess the project in detail for the following reasons:

1. to identify the preferred project option for addressing the identified need and meeting the project's objectives and to identify its key features, such as (i) proposed scope of service and infrastructure requirements (ii) size and capacity (iii) location (iv) budgetary costs and funding arrangements (v) project risks (vi) environmental and social impacts and (vi) project implementation arrangements;
2. to assess the project's viability, by estimating its financial revenues and costs and its economic costs and benefits, and identifying whether there are material impediments (e.g. land, legal, stakeholders, environmental and social risks that need to be resolved/mitigated) to the successful undertaking of the project, in order to substantiate the **investment decision** i.e. whether it a good **project**; and
3. to assess the merits of different PPP models in delivering the preferred project option and to confirm, or otherwise, the suitability of PPP procurement, in order to substantiate the **procurement decision** i.e. is PPP the best delivery scheme?

Who Submits a PQP?

Preparing a PQP is the responsibility of the concerned IA. For this purpose, the IA can engage transaction advisors. Typically, a multidisciplinary team of advisors is retained to address all the necessary elements of a PQP based on a Feasibility Study (also known as Business case or Project Appraisal) including, but not limited to:

- **Technical:**
  - In charge of the project's design, with expertise in the type of infrastructure that is the subject of the contract;
  - Expertise in the technical aspects of the services involved.
- **Economic:**
  - Expertise in economic appraisal, preferably in the same sector/ infrastructure or service type.
- **Financial:**
  - Expertise in financial analysis in the field of user-paid or government-paid PPPs, preferably in the same sector/infrastructure or service type and also knowledge of financing similar PPP projects (when the government needs to develop a bankable structure);
  - Expertise in contract risk structuring and payment mechanisms, preferably in the same sector/infrastructure or service type.
- **Legal:**
  - Expertise in public law/ administrative framework; and

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  - Experience in drafting PPP contracts. Although the drafting of the PPP contract will not occur until a later phase knowledge of PPP contracts will be necessary to enable a proper assessment of the existing legal framework. For a PPP covering existing operations, the legal due diligence will need to look at existing contracts, legal actions, loan contracts, and so on.
- **Environmental:**
  - In charge of environmental impacts; should provide relevant expertise/ experience in environmental analysis and resilience assessment.

When to submit a PQP?

In principle the retainment of advisory services follows the approval of a PCP (in the event the IA decides to submit one), which indicates the sensibility of the project and its suitability for PPP warranting as such the suggested advisory services. It is up to IA when and how it will retain advisory services.

It is to be noted that the process of engaging advisory services can take 3 to 6 months depending on the availability of funding and the nature of procurement.
The time required to prepare the PQP will depend on the complexity and scale of the project and can take up to 6 to 12 months.

What are the submission requirements of a PQP?

As per the P3A Regulation on Process Flow and Approvals, a PQP is to include at least the following:

1. *a feasibility study (along with all supporting documentation, supplementary studies etc.), need assessment and an outline of the transaction structure of the project;*
2. *a techno-economic analysis explaining the project rationale, fit with national development plans, bankability, economic and financial viability, and project cost and financial model;*
3. *analyses with respect to legal, regulatory, environmental, social and gender impact of the project considering applicable international best practices;*
4. *a risk review;*
5. *detailed information as to any government support which may be required in connection with the project including funding through the viability gap fund or the project development facility;*
6. *the management and operation plan for the project, including proposed delivery mode; and*
7. *such related documentation or information as the Authority may, from time to time, require.*

Following good international practice, the feasibility study underlying the PQP should include the following elements:

1. **Executive summary** of the conclusions;
2. **Need and options analysis**, **policy objectives, and general considerations.** This should describe the needs identified during the Identification Phase and indicate the appropriate policy directives to solve them;
3. **Governance considerations**. This could include the description of the agencies involved and their responsibilities;
4. **The technical requirements**. This could include the definition of the infrastructure, services, outputs location, target user group, technologies to be employed, and so on;
5. **The commercial feasibility analysis**. This should present the main assumptions of the financial model and introduce the results of the commercial feasibility assessment;
6. **The market sounding conclusions**. This should present the procedures chosen to contact the market and extensively present any feedback obtained and conclusions reached, including the decisions about eventual changes in the project;
7. **Economic analysis**. This should be a summary of the Cost-Benefit Analysis reflecting the net Present Value of economic benefits and costs and the economic Rate of Return;
8. **Affordability**. This should present the total estimated commitments in all scenarios and objectively introduce the results of the fiscal feasibility tests including the impact on the governmental balance sheet and demonstrate if this impact interferes in the debt limit thresholds;
9. **Environmental assessments and planned impact mitigations**. This item should present the extensive results of the Environmental Impact Assessment and indicate if the project obtained the environmental approvals or, at least, what the required next steps to do so would be, as well as a comprehensive Climate and Disaster Risk Assessment (CDRA)
10. **Social Feasibility Analysis**. This item should include the social impact assessment with specific attention for gender equality, and the corresponding social action plan;
11. **Legal due diligence**. This should present all the legal issues identified and produce objective recommendations about eventual measures required to overcome legal obstacles;
12. **Value for Money assessment**. This should indicate the level of accuracy obtained in the VfM estimations, and it should highlight the main drivers that add value to the project in quantitative and qualitative terms;
13. **The procurement strategy**. This should indicate the route chosen and its main characteristics;
14. **Project plan and recommended next steps**. This should present the revisited time schedule and the recommended aspects related to governance and operational roles in the next phase; and
15. **Conclusion**. This should have a clear and objective recommendation for the decision-makers about the continuation or cancellation of the project.

It is recommended to include the actual envisioned scope of work in the Terms of Reference for the advisors, keeping in view the indicative list provided above (which should be tailored to meet the exact needs of the project).

When to consider a Pre-Feasibility Study?

In some cases, IA may decide that the project be subject to a pre-feasibility study to determine whether a full project evaluation is warranted, or to narrow down the range of project options or the PPP models to be assessed in a full project evaluation. This will be a prudent step if the IA has significant doubts over which project options and/or PPP models should be subject to detailed assessment.

Whilst the undertaking of a pre-feasibility study will consume time and money, it will be time and money well-spent if it results in

(i) not proceeding with a full project evaluation for a project that is ultimately judged as being either not feasible in its current form or is unlikely to lead to a bankable PPP project; or

(ii) a more efficient and targeted set of terms of reference for a full project evaluation; this may regain most the time and money spent on the pre-feasibility study.

The terms of reference for a pre-feasibility study will vary to some extent according to the specific matters that warrant its undertaking. Some pre-feasibility studies can be relatively broad, covering most of the content areas looked at in a full project evaluation, although in less detail. Examples of scenarios for the undertaking of such studies include projects where:

- government has relatively little experience and wishes to increase its understanding to determine whether to pursue the project further, and in what form (e.g. new technologies, such as solar power or wind power); or
- the scope is quite broad and needs to be narrowed (e.g. how many towns to include in an infrastructure project), or the range of potential technical project options for meeting the government's project objectives.

In contrast, some pre-feasibility studies can have a narrow scope, for instance

- focusing singularly on a consideration of whether PPP procurement is likely to provide better value for money and/or identification of the range of PPP models that warrant detailed assessment in a full feasibility study; in most instances, the pre-feasibility study will identify a preferred PPP model or a short-list of preferred models. This narrow focus can arise for a number of reasons, including
  - a full project evaluation will be undertaken only if PPP procurement is confirmed as being likely to provide a better value for money outcome; or
  - a full project evaluation on the project has been undertaken recently but did not consider PPP procurement in any or sufficient detail; and
- focusing primarily on assessing pre-identified issues (e.g. of a policy, legal, project site and access, technical or financial nature) that potentially could render the project infeasible. A full project evaluation will be undertaken subsequently only if the pre-feasibility study identifies that those matters are resolvable in a way that meets the government's objectives for the project.

Some of the broad pre-feasibility studies may be undertaken at desktop level whilst narrower studies most likely will require field work, including discussions with key stakeholders. For instance, a pre-feasibility study that is considering the likelihood of PPP procurement offering better value for money will invariably require the undertaking of a market sounding with players active in that market or similar markets.

Given its narrower scope and/or higher level nature, the time and cost to undertake a pre-feasibility study will be significantly lower than for the undertaking of a full project evaluation.

How to submit a PQP?

The engagement of advisory services requires arranging the necessary funding and a competitive tender process for commercial advisory services to ensure the selection of a suitable advisor on economically advantageous terms[4]. This implies the following activities.

1. **Arrange Funding**. Possible sources of funding include (i) budget appropriations of IA, (ii) financial support from development partners and (iii) the PDF
2. **Establish Governance Structure**. The IA will have to set up an organizational structure to manage the project including the management of advisory services and the corresponding decision-making process i.e. the selection of the advisor and the review and approval of its recommendations. This is typically organized through the establishment of a project management team and a steering committee. The project management team will be responsible for operational management of the advisory services acting as counterpart of the advisor and the steering committee will be responsible for the strategic management i.e. providing guidance to the advisor and reviewing and approving its findings and recommendations.
3. **Request for Qualifications**. Once the funding and organization is in place, the advisory services can be tendered in accordance with the Public Procurement Regulatory Authority (PPRA) Rules. The Implementing Agency may, if it considers necessary, firstly issue a request for qualifications (RFQ). This includes essentially the publication of an ad with reference to the RFQ document further stipulating the project and the proceedings and requirements for the required advisory services. However, the exact manner will depend on the source of funding.
4. **Selection of Advisory Firm**. Firms that meet the qualifications will be invited to submit a proposal to deliver the Advisory Services in accordance with the Terms of Reference as set by the IA. It is up to the decision-making body of the IA to evaluate the proposals received and select a preferred bidder. It is recommended to apply a quality-cost based selection mechanisms implying that the selection is based on a weighted scoring of the Technical Proposal and the Financial Proposal. This may imply that it may be more appropriate to select a somewhat more expensive advisory firm if the technical proposal is of higher quality. Cost of service should not be the main differentiator.
5. **Facilitate Advisory Firm.** To ensure an efficient and effective delivery of the advisory services, the IA is encouraged to thoroughly and within reasonable timeframes review and comment on the advisor's deliverables and facilitate the advisor with the following activities:
    - share all necessary documents;
    - support the advisors and help to coordinate and make introductions to other public sector agencies as required;
    - support the advisors in receiving necessary permissions to conduct their site visits and data analysis sharing the necessary documents,
    - logistical support; and
    - any other support as deemed necessary for the preparation of a high quality PQP.

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[4] For certain types of projects, IFIs may be engaged through a separate process in accordance with the P3A (Direct Contracting of IFIs as Transaction Advisers) Regulations, 2023

PQP Review and Approvals

A review and approval of the PQP is necessary to verify that the information provided is complete and appropriate confirming in principle the investment and procurement decision, and authorise the further structuring of the project (which will of course require further time and resources). The IA in coordination with the transaction advisor at the time of PQP stage will evaluate fiscal costs of the project and share estimates with both RMU and P3A for review and evaluation, in accordance with the "Guidelines for Fiscal Commitments and Contingent Liabilities 2024," issued by Ministry of Finance.

The PQP screening in terms of review and approval is done in 2 steps:

1. P3A will assess the adequacy of the PQP and its compliance with decision criteria. If satisfactory, the PQP will be forwarded to P3WP for final review and approval. If unsatisfactory, the PQP will be returned to the IA for addressing any issues and or providing further clarifications and or the recommendation to reconsider the use of PPP for the project concept as other delivery schemes might be more suitable.
2. If P3A is satisfied, the PQP will be presented to P3WP for review with a recommendation from P3A. P3WP will review the PQP, and approve, reject or return the PQP with comments.

No specific formal timelines are provided by the P3A regulation on Process Flow and Approval, though it is advised that the following timelines apply for the screening of the PQP:

1. P3A response to PCP shall be provided within [1 month] after receipt of PQP and similarly to any revisions if applicable.
2. P3WP response shall be provided within [2 months] after receipt of revised/complete PQP from the IA.

The screening process is to confirm the adequacy of project preparation and the decision to implement the project as a PPP. This is substantiated with the following decision criteria:

Criteria	Description	Rationale
Information Adequacy	Is the PQP complete, accurate and adequately substantiated?	To ensure that the information provided through the PQP is sufficiently reliable to support the necessary decision-making
Economic Soundness	Does the project generate an economic rate of return of at least [12%] as assessed through a Cost-benefit Analysis in accordance with international standards?	If the economic merits do not sufficiently outweigh the economic costs, the project will not add value to the country's economy and the project will also not be eligible for financial support from any of the recognised development partners.
Financial Viability	Does the proposed PPP structure meet the requirements from investors and lenders in terms of generating a satisfactory return	If the proposed PPP structure does not generate sufficient predictable revenues through either user charges or government support schemes there will

Criteria	Description	Rationale
	on equity respectively complying with the debt service cover requirements?	not likely be sufficient interest from the market to ensure a competitive bidding process
Value for Money	Does the proposed PPP generate sufficient efficiency gains to offset the incremental transaction and capital costs as assessed through a VFM analysis in accordance with international standards?	If the proposed PPP does not generate VFM, the government would be better off with using conventional procurement and financing schemes i.e. the PPP would be more costly to society than alternative delivery schemes
Affordability	Are the required government support schemes in terms of direct liabilities through VGF and or government payment schemes affordable by the IA?	At this stage, the PQP should indicate the required financial support from government resources which are to be funded from either the IA's budget or the dedicated VGF facility and confirm their affordability taking into account the fiscal constraints.
Risk Manageability	The project does not involve any material adverse risks that are not manageable by either the government or the private party.	At this stage, the PQP should identify and appraise all possible risks impeding the project including technical, financial, legal, environmental and social risks and suitable risk mitigation strategies should have been recommended. Specifically for resilience, the PQP should • Incorporate disaster and climate risks under consolidated risk register • Identify key hazards, exposure to hazards, and vulnerabilities of the proposed PPP project • Understand the potential impact on the natural and built environment, people and communities.

4.3 Project Proposal

Why submit PP?

Once the PQP is finalized and approved, it is to be recognized that the project is most likely not yet ready to be tendered. There may be a need to have some further studies to address outstanding issues and or mitigate specific uncertainties and most importantly the project team needs to structure the project transaction.

These activities are essential in order to develop a bankable and affordable structure with appropriate potential for value for money, while reducing risk of failure to a minimum and that ultimately is to be reflected in the tender documents through corresponding provisions and mechanisms.

Who submits a PP?

Preparing a PP is the responsibility of the concerned IA. For this purpose, the IA can continue to use its team of advisors albeit that most likely the nature and competencies will shift more towards the legal and financial advisors addressing more the heads of term for the PPP transaction.

When to submit a PP?

In accordance with the P3A Approvals & Process Flow Regulations, an IA may, within a period of one year from the date of approval of a PQP in connection with a qualified project, submit a PP for the same to P3A for purposes of obtaining necessary approvals.

Provided that P3A may, in its discretion, grant an extension in the period in which a project proposal may be submitted, for reasons to be recorded in writing.

What are the submission requirements of a PP?

Essentially, the PP largely reflects an update of the PQP based on the proposed structure for the PPP transaction, and shall as per the P3A Regulation on Process Flow and Approvals include the following:

1. *comprehensive details of the proposed transaction structure with all supporting documents including a complete techno-economic feasibility study, together with all associated and supplementary studies required to conduct an appraisal; and*
2. *(b) a techno-economic analysis explaining the project rationale, fit with national development plans, bankability, economic and financial viability, and project cost and financial model;*
3. *analyses with respect to legal, regulatory, environmental, social and gender impact of the project considering applicable international best practices;*
4. *a risk review;*
5. *detailed information as to any government support which may be required in connection with the project including funding through the viability gap fund or the project development facility;*

INTERNAL. This information is accessible to ADB Management and staff. It may be shared outside ADB with appropriate permission.

6. *the management and operation plan for the project, including proposed delivery mode; and*
7. *such related documentation or information as the Authority may, from time to time, require.*

How to submit a PP?

The main tasks for this purpose include:

1. **Finalizing Due Diligence and Preparation**
   Some investigations and due diligence (for example, geo-technical conditions, developing an archaeological map, collecting utility allocation information, developing an environmental management plan and related requirements, and so on) may not have been completed during the preparation of the PQP and should be finalized during this period.
2. **Further Developing the Project Definition and Technical Requirements (and refining cost estimates)**
   Technical requirements will usually have been tentatively defined in the PQP including the technical specifications for construction and/or a reference design (on the basis of which bidders will prepare their technical proposals for construction). The final definition of the technical requirements is completed before preparing the Tender Documents. Performance requirements will usually also have to be refined or detailed, especially since they are intrinsically linked to the payment mechanism.
3. **Developing and Finalizing the Contract Structure: Financial Structure and Payment Mechanism**
   The contract was pre-structured or the preliminarily structure was defined during the project evaluation. In this step, the final structure is defined (or the pre-structure is refined), so as to confirm all of the principal commercial terms before it is documented by drafting the contract. This is one of the essential tasks to be carried out during this phase
   - Several of the main areas of structuring are financial.
   - Financial support mechanisms;
   - Overall compensation instruments, especially when a co-financing scheme is used;
   - Other support instruments, for example, public funding instruments and guarantees (explicit or contractual), which interrelate with risk structuring;
   - The payment or revenue mechanism
   - The performance deduction mechanism; and
   - The contract term.

   All of these issues must be reflected in the draft PPP agreement. They also influence the financial model and plan, and hence affect the ceiling of payments (or the floor on any concession fee in user-pays projects). Also, in the event of exceeding previous estimates it may be necessary to reopen or reassess the commercial feasibility, VFM, and affordability analysis.
4. **Refining the Contract Structure: Definitive Risk Structuring and Allocation**
   A preliminary risk assessment will have been conducted upon PQP, identifying the main categories of risks and main risk events for the particular project, and a decision on overall

allocation will have been taken. This task further refines the risk structure: more specific risks events may emerge, but above all, some risks allocation decisions will be further detailed to define the risks retained by the government and the extent to which some risks are shared (for example, defining benchmarks and impact ceilings to restrict the right for claims). The risk allocation influences the financial feasibility analysis and the VFM exercise, and this is an essential input for drafting the contract.

Contract drafting work should start once the risk allocation is defined, unless there are significant signs that the project is not feasible due to new information that emerged during the risk analysis.

5. **Updating the Financial Model and Potential Confirmation or Reassessment of Financial Analysis Matters. Setting the Ceiling of Payments**

   The financial base case must be updated to reflect the refinement of the risk allocation structure and any changes in the financial structure of the project. This will result in changes to the financial model and plan. This definitive financial model will determine the ceiling for payments (or floor for concession fees) to be reflected in the RFP provisions. This is done to establish the maximum (or minimum) payment acceptable for a qualifying bid.

6. **Testing, Marketing and Communicating the Project**

   It is good practice to conduct further market testing upon structuring to collect reactions, suggestions, and concerns from the industry (investors, contractors, and lenders). Particularly lender's input is crucial as typically their requirements become explicit upon arranging finance to reach Financial Close and any major revisions to the PPP Agreement after the conclusion of a tender process in order to meet their requirements may have legal ramifications for the IA. When the IA decides not to test the project any further (based on the fact that it has been meaningfully tested upon project evaluation), the project should be marketed to promote the interest of the industry and to let the potential bidders prepare themselves for the tender.

7. **Defining and Drafting other Commercial Terms and Contract Provisions**

   Many other commercial terms or structuring matters must be appropriately drafted into the contract. These additional and important matters (apart from financial structuring and risk structuring, although many of them are related to these) may include the following;

   - Performance requirements, performance management issues, and other provisions, such as reporting obligations and monitoring provisions;
   - Contract breaches, penalty system(s), and possible default events;
   - Occasions calling for compensation and rebalancing regulations;
   - Other financially related provisions: financial structure (minimum equity), changes in financing (refinancing) and ownership, insurance requirements, performance guarantee, and lenders' rights;
   - Intellectual property and confidentiality;
   - Contract changes;
   - Dispute resolution matters;
   - Early termination scenarios and related compensation provisions; and
   - Hand-back provisions

PP Review and Approvals

Presenting now the full details of the PPP transaction, the gateway proceedings for the PP are more elaborate than the preceding deliverables. It encompasses the following steps:

1. RMU's Review and Approval
2. P3A's Review and Recommendation
3. P3A Board's review and Approval
4. CDWP's Review and Approval
5. ENEC's Review and Approval (if applicable)

1. **RMU's Review and Affordability Approval.**

The project structure now provides a full description of the envisaged government support scheme to ensure the PPP's bankability. The government support scheme will include direct and contingent liabilities, as defined in Ministry of Finance's "Guidelines for Fiscal Commitments and Contingent Liabilities 2024" which are to be identified and quantified as part of the PP based on the proposed transaction structure and could include any or several of the following fiscal implications:

Type	Description	Example
Direct Liabilities (always explicit)	○ Predictable government obligations that are certain and quantifiable ○ Typically fixed contractual payments to be made by the government to a private party	• Availability payments • Milestone payments • Output based payments • Viability gap payments • Other government support schemes
Contingent Liabilities (can be explicit or implicit)	○ Unpredictable government obligations that may be incurred when an uncertain risk event occurs	• Government guarantees on risk variables including inflation risk or exchange rate risk • Government guarantees on demand • Force Majeure • Credit guarantees • Compensation payments by the government if the PPP project defaults

To confirm the affordability and consequent fiscal sustainability of the PPP, RMU will use the following decision criteria[5]:

[5] In line with the criteria as included in the FCCL Framework

Criteria	Description	Rationale
Fiscal Affordability & Sustainability	○ Total direct and contingent liabilities from all projects (flows) shall not exceed [3%] of the country's GDP.	(i) To ensure that if risk events materialise the IA will be able to fund the corresponding contingent liabilities without material adverse impact on the portfolio of activities to deliver the IA's strategic objectives (ii) To ensure that the government's debt balance will be sustainable and provide the government with the flexibility to optimise its financing strategy
Value for Money	○ To confirm that the project generates an economic rate of return of at least [12%] as assessed through a Cost-benefit Analysis in accordance with international standards. ○ To confirm that that the proposed PPP generate sufficient efficiency gains to offset the incremental transaction and capital costs as assessed through a VFM analysis in accordance with public-sector comparator model.	To warrant the use of budgetary resources for a project that adds value to the economy To warrant the use of budgetary resources for a contractual arrangement that adds value to the society.

If an IA is unsure whether a project being planned qualifies for a PPP, it can ask for advice from the P3A or the RMU. Specifically, the IA can seek guidance from RMU on whether it can handle the financial responsibilities and potential risks from the PPP project without causing explicit direct or contingent liabilities for the federal government.

2. P3A's Review and Recommendation:

Taking into account RMU's conclusion and given the final assessments as per the PP, P3A will update its PQP Review using the same decision criteria in order to provide a recommendation for the investment and procurement decision.

3. **P3A's Board's Review and Approval**

Upon receiving of approval of the project from the RMU, the P3A shall submit the PP, along with its' recommendation through the Project Evaluation Document to the P3A Board for its consideration and approval. P3A Board shall evaluate the PP as following:

(i) Approve the PP, thereby indicating that the proposed transaction structure of the project has been endorsed and/or amended to optimize value for the public and that the process may be initiated for the procurement of the private party for execution of the project;

(ii) Return the PP to the IA, through the P3A, with comments and suggestions so that the IA may re-submit the project proposal after making the necessary revisions on the basis of the aforesaid comments; or

(iii) Return the PP without approval thereof for reasons to be conveyed to the implementing agency in writing.

In approving the project proposal, the P3A Board may specify and set certain conditions, including with respect to whether and to what extent certain approved terms and conditions may subsequently be negotiable between the successful private party bidder and the IA.

P3A Board may refer certain items/ terms/ parameters of the transaction structure to the CDWP for its consideration and approval. The IA or through its Legal Counsel shall certify that the P3A's Board and in the cases where-in the transaction structure has been amended by the CDWP/ ECNEC shall be duly reflected in the bid documents of the project and that the bid documents of the project in no way shall deviate from the approved transaction structure.

4. **CDWP's Review and Approval**

Upon approval of the PP by the P3A Board, the IA shall submit PC-I of the project which will be considered for approval by the CDWP.

PC-I PROFORMA

The Planning Commission proforma I (generally called PC-I) is the primary project document, and its preparation is a key step in project preparation and processing. The sponsoring agency is expected to spend adequate time and resources in preparing this document to avoid complications during project implementation resulting in delays in project completion and cost overruns. The PC-I is used both for new projects and revision of ongoing projects.

The Proforma comprises of three parts:

A. **Project Digest**, which requires basic project information, that is, project title, location, sponsoring and executing agencies, project description, justification and technical parameters, project cost and completion period, physical and financial phasing, the status of a feasibility study, and project objectives, plan, and sector strategy linkages.
B. **Project Requirement**, which includes project scope, employment generation, management structure and manpower requirements, the status of surveying and mapping and land acquisition activities, and responsibility of operation and maintenance of project assets after project completion.
C. **Appraisal and Analysis**, which needs information on project quantifiable benefits (financial, economic, social), revenue or income generation after project completion, financial and economic analysis and results, sensitivity and risk analysis, stakeholder consultation analysis, environmental and social impact assessment (including climate change and Clean Development Mechanism (CDM) assessment), and disaster reduction analysis.

Only the Project Digest (with additional information) is required to be submitted for the revised projects.

The following attachments are required to be annexed to the PC-I:

(i) Certificate regarding the conduct of feasibility study wherever applicable, which must include technical/reference design, bill of quantities, etc.

(ii) Environment Impact Assessment.
(iii) Questionnaire for an assessment of the CDM potential in public sector projects.
(iv) CDM eligibility test for assessment and identification of a project in the public sector.
(v) Checklist for disaster risk reduction.

After preparation of the PC-I, the PAO signs the PC-I/PC-II certifying that "the project proposal has been prepared on the basis of instructions provided by the Planning Commission for the preparation of the PC-I of the concerned sector projects". Thereafter, the PC-I or PC-II is to be submitted to the PIA Section of the planning commission, which circulates it to the members concerned of the CDWP, including the technical section concerned for their review and appraisal.

The PC-I proforma, along with detailed instructions are available on the Planning Commission's website.

Source: Planning Commission: Manual for Project Development

5. **ENEC's Review and Approval (if applicable)**

Upon approval of the PP by the P3A Board and CDWP, the P3A shall, in the event that the total cost of the project exceeds Ten Billion Pakistani Rupees (PKR 10 billion), forward the PP to ECNEC for approval, together with RMU's conclusion.

Provided, however, that such approval from ECNEC shall not be required in the event that ECNEC has previously considered and approved the project, and terms of the PP approved by the P3A Board are in accordance with the financial thresholds (including with respect to the project cost and the government's financial support) previously approved by ECNEC. P3A shall inform the IA of the final decision of the Board or ECNEC, as the case may be.

4.4 Bid Documents

Why prepare Bid Documents?

The set of Bid Documents are to facilitate effectively and efficiently the competitive tender process underlying the selection of a private partner for the PPP, more specifically:

1. To provide bidders with the scope of work in terms of functional specifications and performance standards that have to be complied with so as to enable them to submit responsive and competitive offers;
2. To solicit bids;
3. To inform bidders of the rules applicable to the bidding process, including the requirements applicable to the submission of bids, any applicable qualification and eligibility requirements, and the criteria to be used in evaluating and ranking bids for the purposes of determining the winner; and
4. To inform bidders of the applicable contract conditions.

A certain degree of standardization in contract conditions and tender features is highly desirable to provide consistency in analysis and decisions as well as showing consistency to the market.

Who prepares Bid Documents?

Preparing Bid Documents is the responsibility of the concerned IA. For this purpose, the IA can continue to use its team of advisors albeit that most likely the nature and competencies will shift more towards the legal advisors to capture the transaction structure in the bid documents.

When to prepare Bid Document?

The preparation of the Bid Documents can commence when PP has been approved and the preparation and structuring is finalised and assumes that advisors have been retained or relevant expertise has otherwise been arranged for. Preparing Bid Documents typically requires 3-6 months depending on the complexity of the project and the PPP arrangement and the quality of the preparatory activities.

What is included in the Bid Documents?

The Bid Documents encompasses the following documents:

1. Request for Qualifications (if applicable)
2. Request for Proposal
3. PPP Agreement and other applicable project agreements

1. Request for Qualification

The Request for Qualification (RFQ) is a document with the request to prospective bidders to pre-qualify for submitting a bid.
The objectives of the RFQ include:

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- Select a list of short listed bidders (single applicant or consortia) that are qualified – technically, financially, legally and have sufficient experience and commitment to prepare proposals and execute the project;
- Set out the rules of participation in the procurement process clearly and unequivocally and non-discriminatory.
- Disseminate factual information on the project;
- Give guidance on the expected kinds of participants and formation/change of bidding consortiums in the bidding process;
- Provide an indication of the procurement timescales
- Gather information from bidders that is verifiable and can be evaluated.

This ensures that the successful bidder will have not only the qualifications to undertake the project, but also the capacity to reach financial close and execute contract obligations effectively and timeously.

The objective of a pre-qualification process is to set a minimum bar of capability for the bidder firm or group of firms (bidding consortium) that will be allowed to enter into the next stage of the bidding process (eventually intended to lead to the execution of the PPP contract). Setting pre-qualification criteria will reduce the risk of project failure caused by a lack of capabilities and capacity. However, if the criteria are too restrictive this may limit competition. The Transaction Advisor can advise on the interest of potential market participants and support the IA to carry out market sounding exercises to determinate market feedback.

The higher the bar, the less the competition. However, simply having more competition (in the sense of more pre-qualified bidders) does not necessarily mean better competition. Also, bar levels set too low in terms of qualifications may discourage highly qualified bidders as they perceive they have a lower chance of winning. The Transaction Advisor, with their experience of carrying out similar procurements can advise the IA and the P3A on how to customize the levels of qualifications in order to achieve an appropriate balance, bearing in mind the project's specific needs and lenders' expectations.

Typical qualification criteria include:

In accordance with Rule 12(2) of the PPRA Rules, procuring agencies may consider the following factors while engaging in pre-qualification:

(a) relevant experience and past performance;
(b) capabilities with respect to personnel, equipment, and plant;
(c) financial position;
(d) appropriate managerial capability; and
(e) any other factor that a procuring agency may deem relevant, not inconsistent with these rules.

In addition, the following criteria may be considered (depending on the project) for purposes of pre-qualification.

Legal/administrative qualifications (typically pass/fail)

- Evidence of the bidder's (including those in a bidding consortium) existence and good standing under the relevant law.
- Evidence of the consortium agreement and the commitment of the respective members.
- Evidence of the power of the representatives of each member of the bidding consortium to act on its behalf.
- In the case of a foreign company operating in the country, evidence of its registration or license to operate issued by the competent entity, when the activity requires it.

Financial capacity qualifications (typically pass/fail)

- Minimum average net worth over the past 3 years for the individual bidders and jointly in case of a consortium i.e. assets minus liabilities to demonstrate ability to provide equity for the project and to confirm financial standing of the consortium members;
- Bank "support letters" or "letters of comfort" reporting on the capacity of the firms/companies or consortia to raise funds or at least the confirmation that banks are willing to consider engaging with the bidders and supporting the respective project.

Technical capacity qualifications (can be pass/fail or can be subject to ranking)

- The overall amount of revenue related to the specific business (construction, O&M, or PPP ownership/management).
- Overall Capex for construction and/or number of projects developed.
- The overall amount of debt raised in the PPP portfolio of the consortium.
- Number of relevant or similar projects within the PPP portfolio (qualifying projects). It is usual practice to only consider projects of a minimum size or meeting some other minimum threshold. This depends on the sector (for example, it could include cubic meters in water, demand/volume or population served, number of kilometres, or number of beds in a hospital, and so on).
- In addition to the number of qualifying projects, the aggregated number (counting all projects together) of users or population served in the PPP contracts within the experience portfolio (transportation, water, education, health, or number of beds (hospitals), and so on)

The RFQ (which in some countries is called a Request for Expressions of Interest – REOI) will cover the qualification criteria (or selection criteria for short listing) and the requirements for submission of the qualifications (SoQ). It includes time to submit, formats and documents, and the form of evidence of the qualifications (especially experience) required. It will also contain rules in relation to issues such as conflict of interest, incompatibilities or changes in the composition of a qualified consortium in the bid submission stage, and a summary description of the project and the future contract structure.

Example of Table of Contents RFQ

1 DISCLAIMER

2 RFQ ANNOUNCEMENT

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3.2 Information about the Project

4 DEFINITIONS

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5.2 [Participation Fee]

5.3 Schedule

5.4 Bid Stage
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6 INSTRUCTIONS TO PARTICIPANTS
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6.2 Conflict of Interest
6.3 Prohibition of Corruption, Collusion and Nepotism and Fraud
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7 QUALIFICATION REQUIREMENTS
7.1 Technical Capacity
7.2 Financial Capacity
8 QUALIFICATION DOCUMENTS
8.1 Administrative Requirements
8.2 Language
8.3 Accuracy
8.4 Ownership
8.5 Submission Procedure
8.6 Addition, Replacement, Reduction or Withdrawal
8.7 Warranties
9 EVALUATION PROCESS
9.1 Opening
9.2 Evaluation of Qualification Documents
9.3 Non-Compliance
9.4 Compliance with Capacity Requirements
9.5 Disqualification
9.6 Result of Qualification
10 APPENDICES OF RFQ DOCUMENT
Appendix I Letter of Submission of Qualification Documents
Appendix II Checklist of Qualification Document Contents
Appendix III Participant Information Form
Appendix IV Administrative Information Form
Appendix V Pending Litigation, Arbitration and Other Proceedings/Historical Non-Performing Contracts Form
Appendix VI Integrity Pact Form (Single Entity)
Appendix VII Integrity Pact Form (Consortium Entity)
Appendix VIII Experience and Capability with Similar Infrastructure Provision Projects Form
Appendix IX Parent/Shareholder’s Support Letter
Appendix X Historical Financial Performance Form
Appendix XI Bank Reference Letter
Appendix XII Statement of No Insolvency, No Suspension of Business Activities, and/or No Pending Criminal Lawsuits
Appendix XIII Financing Experience with Infrastructure Provision Projects Form
Appendix XIV Power of Attorney Form

2. Request for Proposal

The RFP as to be issued to qualified or shortlisted bidders sets out the bidding process in detail, the process of issuing questions, compliance including the conducting of bidders conferences, the time limit to submit a proposal, the validity period of the proposal, details of the information that needs to be included in the proposal, prerequisite conditions for contract signature (and for financial close in projects where financial close is soon after commercial close), and so on.

Best practice suggests the following general structure for the RFP documents:

(i) Cover Note in the form of an Invitation to Shortlisted or Qualified Bidders, providing a brief background and justification for the PPP project, an introduction to the IA and the expectations from the private partner;

(ii) Confirmation that the bidder (single applicant or consortium) qualifications conditions have not changed after the end of the RFQ process (if applicable);

(iii) General information required by bidders to prepare and submit their proposals. This will provide overall instructions to bidders regarding the format and organization of the information they submit;

(iv) PPP Project specific information and performance indicators including the IA's standards regarding safety, security, and environmental and social protection, etc.;

(v) The RFP documents shall include not only a detailed risk allocation matrix and description of the PPP modality, but also a complete draft of the full PPP Agreement that the preferred bidder will be expected to sign and fulfil. This draft contract shall be complete and sufficiently detailed such that there will be very little the remains to be negotiated once the preferred bidder selection has been announced.

(vi) The criteria against which proposals will be evaluated, including minimum benchmarks that proposals must meet in order to be deemed responsive.

Example of Table of Contents RFP

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6	INSTRUCTIONS TO BIDDERS
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6.9 Verification of Information
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6.11 Changes in Consortium
6.12 Bidding Period Lock-Up Rules
7 PREPARATION AND SUBMISSION OF BIDS
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7.3 Structure and Content of Bid Document
7.4 Format and Signing of Bid
7.5 Sealing and marking of Bid
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8 OPENING AND EVALUATION OF BIDS
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8.8 Right to Reject
9 DETERMINATION OF WINNING BIDDER
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9.4 Winning Bidder Responsibility
ANNEXES
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ANNEX B : PROPOSAL EVALUATION SHEET
ANNEX C : TECHNICAL AND DESIGN SPECIFICATION
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ANNEX E : ENVELOPE B – TECHNICAL PROPOSAL
ANNEX F : ENVELOPE C – FINANCIAL PROPOSAL
ANNEX G : ENVELOPE D – RESPONSE TO DRAFT OF PPP AGREEMENT
ANNEX H : ENVIRONMENTAL PERMIT REQUIREMENTS
ANNEX I : INFORMATION MEMORANDUM
ANNEX J : RISK ALLOCATION

3. PPP Agreement

An integral part of the RFP Documents is a draft PPP agreement. A well-designed contract is clear, comprehensive, and creates certainty for the contracting parties. Because PPPs are long-term, risky, and complex, PPP contracts are necessarily incomplete, that is, they cannot fully

specify what is to be done in all future states of the world. This means that the PPP contract needs to have flexibility built in to enable changing circumstances to be dealt with as far as possible within the contract, rather than resulting in re-negotiation or termination of the contract.

The aim of the PPP Agreement is therefore to create certainty where possible and bounded flexibility where needed — thereby retaining clarity and limiting uncertainty for both parties. This is typically done by creating a clear process and boundaries for change.

The purpose of the PPP Agreement is to:

- govern the obligations and rights of the parties.
- define the scope of the contract and the responsibilities of the private partner for the full contract cycle. This includes prescriptions and descriptions of output targets (design, construction and financing, commissioning, operate and maintain, hand-back) followed by the private partner's economic rights (the right to receive payment for the work done).
- provide for mechanisms and procedures to monitor performance and remedy lack of performance. This includes the definition of breaches and the related penalties or liquidated damages, or payment deductions, the rights of the public party or lenders to step in, the right to inspect, and the obligations on the private party to report, etc..
- govern changes and risks affecting the successful outcome of the project i.e. the framework for allowed changes in the scope of services and obligations, and changes due to certain risk events occurring.
- define the mechanisms for payment, dispute resolution and contract termination before the end of the PPP term.

Main commercial terms in the PPP Agreement

Term	Description
Parties to the contract	Identifying the parties to the contract, including IA and the contractor, and any other relevant party The IA may want the contractor to form a Special Purpose Vehicle for the project, in which case the SPV would be a party to the contract and not the contractor company.
Duration of the contract	The period for which the contract would be in force.
Responsibilities of the parties	The responsibilities of all the parties must be defined in detail, and preferably divided into the following phases of the contract: after contract is signed, but before the contract construction has started; during construction; during operations; at expiry/ termination.
Rights of the contractor	The rights of the contractor in terms of access to the site, use of existing assets, making structural changes in existing assets etc. depending on the nature and content of the Project

Project assets and ownerships	Who owns the existing assets? Who owns the new assets being created? When will the ownership of the project assets transfer?
Payment terms	Who will pay to whom? How much shall be paid? When will the payments be made? Which account(s) should be the payments routed from?
Performance management framework	Output standards Framework for measuring actual performance against output standards Consequence of actual performance falling short of output standards
Dispute management framework	What happens when there is a dispute? How will the dispute get resolved?
Force majeure events and consequences	What are force majeure events for the project? What happens when a force majeure event occurs?
Termination and consequences	Who can terminate the contract and why? What happens when one of the parties terminates the contract?
Handover	Responsibilities at the time of handover of the project assets
Jurisdictional issues	Courts that will have jurisdiction on matters related to the contract
Liabilities	Liabilities of each party, including liabilities to third parties
Protection of users' interests	Framework for protection of the rights of the users and beneficiaries of the project- including redressal of their grievances, framework to ensure that the services are not disrupted etc.

The parameters of the transaction structure approved by the P3A Board and subsequently as amended/ approved by the CDWP followed by the ECNEC shall be treated as non-negotiable terms of the transaction/ project. P3A might require IA to submit certification by its legal counsel entailing that the transaction structure approved by the P3A Board/ CDWP/ ECNEC has been duly reflected/ incorporated in the bid documents.

The PPP agreement during this stage must incorporate specific findings derived from the CDRA. This includes clauses for environmental compliance, risk-sharing mechanisms for climate-related events, and any additional requirements for sustainable materials and construction practices. The contractual elements within a PPP contract structure will guarantee that both public and private parties are committed to and responsible for the resilience of the PPP project. When structuring a PPPs for resilient infrastructure, it's important to balance the need for comprehensive risk coverage with the cost implications of insurance. Not all insurance coverages may be necessary from the outset, as obtaining them all simultaneously can significantly increase project costs. The key is to align insurance requirements with the specific risks identified under CDRA. If a risk is elevated under CDRA (e.g., floods), it is recommended to mitigate it through an insurance provision (flood insurance protection).

How?

The drafting of the Bid Documents will typically be led by the legal team though will tap on the inputs from the respective experts, most notably:

- Financial: for the financial capacity indicators, financial bid evaluation approach, the payment mechanisms and the different government support schemes
- Technical: For the technical capacity indicators, technical bid evaluation approach, output specifications and performance standards

Apart from implementing the project team structure and selecting advisors, a project management plan should be in place before starting the specific work of this phase, including a working plan and stakeholder management plan, especially regarding decision-makers that will give the final green light for launching. As with any project, these plans should be developed as part of the IA's application of good practice project management principles such as those contained in the Project Management Body of Knowledge. It is to be noted that drafting Bid Documents is typically a highly iterative process with various drafts that need to be reviewed, commented and updated before the final versions can be presented to the approval authorities.

Check

The P3A Regulation on Process Flow and Approval does not provide for an explicit check on the prepared Bid Documents unless there are material deviations (to be confirmed by the IA and its third party advisors).

However, it is recommended that in the event any modifications have been made to the documents, especially the PPP Agreement, to consult with the P3A/RMU for consistency with the approved terms and conditions (and the need, if applicable, of requesting re-approval on any aspect).

4.5 PPP Agreement

Why procure a PPP?

The selection of a private partner and consequent conclusion of a PPP Agreement is to follow a competitive tender process based on the Bid Documents. The objective of this process is to smoothly but rigorously manage the process to select the best value proposal in a competitive and regulated environment, and execute the contract with the most suitable and reliable bidder. Many features and characteristics of the tender process will be the same as in any other public procurement process. The same general objectives of procurement (such as transparency and fairness) apply to a PPP procurement as to other procurement processes. However, PPP procurements can sometimes bemore complex than other procurement processes, and the particularities of the PPP will demand additional attention and resources from the IA.

Who procures a PPP ?

The process for selecting a private partner and concluding a PPP Agreement is under the responsibility of the IA being supported by Transaction Advisors. However, it is common practice to establish a Tender/Project Committee for evaluating the submissions.

The Tender/Project Committee may comprise of a wide range of qualified participants and subject matter experts with the requisite expertise to (i) assess general qualifications, such as the relevant industry experience of the Bidder, and to (ii) scrutinize the appropriateness and merits of the bids. Ideally, the Tender/Project Committee should consist of an odd number of members in order to enable majority-based decision.

Critical for the transparency of the tender evaluation comforting interested parties is that Members of the Tender/Project Committee shall be unbiased and free from conflicts of interest. Members of the team must also commit to remaining independent throughout the evaluation period, maintaining confidentiality of the proceedings and their evaluation.

When to conclude a PPP Agreement?

The selection of a private partner and consequent conclusion of a PPP agreement can commence after approval of the Project Proposal. The process may take 3 to 12 months depending on the procurement strategy, e.g. one-stage tender or two stage tender, and the scale and complexity of the project.

What is required to conclude a PPP Agreement?

The conclusion of a PPP Agreement will follow the following activities:

1. Establish Tender Committee (TC)
2. Launch Tender
3. Prepare Evaluation
4. Open Statement of Qualifications (SOQ), if applicable
5. Evaluate Statement of Qualifications, if applicable
6. Conclude on Evaluation of Qualifications, if applicable

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7. Facilitate Bid Preparation
8. Evaluate Bids
9. Conclude on Evaluation of Bids
10. Negotiate and Conclude on PPP Agreement in terms of Commercial Close

How to procure a PPP?

1. Establish TC

(i) The IA will initiate the establishment of a TC as discussed above.
(ii) The letter of appointment is to include a brief description of the project with reference to the PP and a description of the scope of work as member of the TC.

2. Launch Tender

The Tender is formally launched in accordance with the provisions of the Public Procurement Regulatory Authority Ordinance 2002 and the rules and regulations made thereunder (as well as any applicable provisions of the P3A Act and the rules and regulations made thereunder). The notice shall:

(i) Be published and disseminated openly to give sufficient notice of the opportunity to qualify for the PPP opportunity.
(ii) Take the form of an advertisement in accordance with PPRA Rules..
(iii) Outline basic project information, identify the respective IA, and include a summary of the project goals and objectives.
(iv) Direct interested parties to the IA or project website containing the RFQ (if applicable) and other relevant project and qualifying materials.
(v) State a clear deadline for submitting qualifying materials that allows sufficient time for interested bidders to prepare and submit qualifying information. State any rights reserved to the IA such as the ability to amend the notice or terminating the qualification process.
(vi) Identify a single point of contact who will be responsible for disseminating project and tender information, answering questions, and clarifying any submission requirements, and
(vii) Identify the manner and place for a bidder to present its bid materials.

3. Preparing the Evaluation

(i) Prior to the commencement of evaluation, the IA with support from its advisors shall prepare and provide to the Tender/Project Committee the SOQ evaluation templates and such other documentation that may be necessary to conduct the qualification evaluations, including any further instructions and guidance material that may be necessary.
(ii) The Tender/Project Committee must ensure the SOQ evaluation templates (and any further instructions and guidance material) mirror the structure and indicated criteria and process of the RFQ.
(iii) The IA and or advisors will train, as necessary, and introduce the Tender/Project Committee to the requirements of the evaluation, process for assessing and evaluating the qualifications, and answer any questions related to the responsibilities of the

Tender/Project Committee (including for example, confidentiality, maintaining objectivity, being free from conflicts of interest, clarifying evaluation criteria, etc.)

4. Opening of SOQs

(i) The TC shall open SOQs at the same time and in according with any procedures specified in the RFQ. Evaluation of SOQs is to occur promptly after opening of the SOQs.

5. SOQ Evaluation

(i) Using the RFQ, SOQs, and evaluation process established for the tender, the TC shall evaluate the SOQs submitted. The purpose of the evaluation is to identify those bidders that are 'pre-qualified' and place those qualified bidders on a 'shortlist' of bidders who are permitted to compete in the next stage of the PPP tender process, the RFP stage.

(ii) The TC, using a checklist based on the RFQ, shall review and document the materials submitted by bidders for compliance with the RFQ requirements including the administrative, technical capacity and financial capacity requirements. Partial, incomplete, invalid or substantially nonresponsive SOQs may be deemed nonresponsive and rejected and the Tender/Project Committee shall make a written record of the objective basis for such rejection.

(iii) If references were requested as part of the SOQ, representatives from the TC may contact the references provided by the bidders and record any feedback received in the official record of the bid.

(iv) If the qualification criteria include pass/fail criteria, the Tender Committee, based on their respective areas of expertise, is to perform a qualitative evaluation of whether the material submitted is substantively sufficient to warrant a 'pass' determination on each pass/fail criterion.

(v) If the qualification is based on shortlisting, the TC, including any technical, financial, legal or other subject matter expert evaluators, are to review the SOQ materials of each and all bidders and provide detailed feedback as to the strengths and weaknesses of each SOQ, recording their observations and scores on qualification evaluation templates which will be retained as part of the official tender record.

6. Conclude on Evaluation of SOQs

(i) The TC with the assistance of the IA and its advisors shall write a Qualifications Evaluations Report recording the results and activities of the evaluation including the objective basis for its qualification recommendations.

(ii) After concluding the evaluation, the IA shall notify the shortlisted bidders that they have been qualified and may participate in the RFP stage of the tender based on the RFP and draft PPP Agreement as made available to the bidders. A formal announcement, identifying the RFQ number and title, the project name, the firms selected for the shortlist, and the address of each firm, shall be posted on websites of P3A and the IA.

7. Issuance of RFPs and Facilitate Bid Preparation

(i) In the event RFQ was published, the RFP shall be shared with qualified/shortlisted bidders. In other cases, the RFP shall be floated generally, and shall contain the qualification requirements.

(ii) Set up the physical/virtual data room i.e. typically libraries of numerous volumes of detailed records, reports, and plans relevant to a specific (usually large) infrastructure project that bidders may access while they are preparing their bids.

(iii) Manage request for clarification. Upon the release of the tender package, Bidders may submit any questions/comments towards informing their preparation of the Proposal. Bidders will be given two to three weeks to submit their comments to the IA after the official release of the bid documents.

(iv) Arrange site visits. Some PPP projects that require complex construction activities, such as the construction of a new road along a lengthy corridor, may include 'site inspections' and 'walk-throughs' hosted by the IA for Bidders' technical staff to physically inspect key project sites first-hand. Site visits should be conducted between 4 – 8 weeks after the issuance of the RFP, to allow sufficient time for logistics and planning.

(v) Host a Bidder's Conference should it be deemed valuable and relevant. The Bidders' Conference is an important milestone in any transaction process. Typically, the Bidders' Conference provides Bidders with an opportunity to raise any comments or questions for clarification in response to the bid package and any other relevant issues, and to discuss the project's key parameters.

8. Evaluate Bids

(i) Using the RFP and bid evaluation process established for the tender, the TC shall evaluate the bids submitted by the bidders. The purpose of the evaluation is to rank the bidders' bids and identify the successful bidder.

(ii) The Tender/Project Committee, using a checklist based on the tender requirements, shall review and document the materials submitted by qualified bidders for compliance with the bid requirements. This includes among others the requirement to have separate envelopes for the Technical respectively the Financial Proposal with no financial bid information included in the Technical Proposal.

  a) Responsive bids are those that have no deviations from the bid requirements.
  b) Partial, incomplete, invalid or substantially nonresponsive bids may be deemed nonresponsive and rejected and the TC shall prepare a clear written record of the objective basis for such rejection.

(iii) The TC shall review bid materials of each and all bidders and provide detailed feedback as to the strengths and weaknesses of each bid and identify the need for clarification of any bid elements, recording their observations on form evaluation templates which shall be retained as part of the official tender record.

(iv) When a proposed technical solution is required in the RFP it must be checked against the stated technical requirements, including performance standards. The purpose is to ensure the bid can realistically deliver the project's output requirements and do so to the required standard.

(v) Bids that satisfy the minimum technical requirements and meet the requirement for the cut-off score would proceed to financial evaluation. Bids that fail to meet the cut-off would not be considered for financial evaluation.

(vi) The announcement of the technical evaluation results will follow this review. The IA will communicate the result of the technical evaluation to all the bidders. The announcement of the technical evaluation of PPP proposals is done prior to and distinctly separate from the evaluation of financial and cost proposals. It is usual at this stage, for the unopened financial envelopes of all bidders deemed to have failed the technical evaluation to be returned to each bidder by the IA.

(vii) The financial evaluation is to be followed for the transparent opening of the financial and cost proposals submitted by bidders who have been found to be "technically responsive." Bidders who have passed the technical evaluation will be invited to attend the opening of the financial proposals in accordance with PPRA Rules. This activity leads directly to the determination of the preferred bidder. Note that this procedure, to be carried out by the TC, comes after, and is distinctly separate from the previous evaluation of the technical proposals.

(viii) Implementing Agencies should consider inclusion of provisions in the RFP to curtail the submission of speculative bids, subject to the applicable procurement rules. In a speculative bid the bidder offers a price that is below what they are actually willing to honor. The purpose of a competitive bidding process is to incentivize bidders to make the best offer that they can realistically deliver and seriously intend to provide.

9. Conclusion of Evaluation of Bids

To conclude the evaluation, the Tender/ Project Committee will most likely take one of the following decisions:

1. Declaring a successful bidder.
2. Cancelling and repeating the tender if the required minimum number of responsive bids are not received.

The findings and the recommendations are to be duly reflected in a Bid Evaluation Report. The report outlines the TC's evaluation activities, the tally of the evaluations, the rank of the bids, and their recommendation for the preferred bidder.

10. Negotiate and conclude PPP Agreement

(i) Provide a detail list of items to be negotiated with the private partner and inviting the private partner to do the same. Items shall not include any general or specific clauses in the agreement, unless items were marked during the procurement phase as to be concluded post-award

(ii) Work with the Transaction Advisor to prepare adequately for the negotiation. A pre-negotiation workshop shall be carried out with the IA adopting a position on each item proposed to be raised by the private partner

(iii) Continuously assess the economic advantage of the Winning Bidder's offer throughout the negotiation.

(iv) The process shall conclude when a final agreed upon position has been reached on all negotiation points. The document identifying the final position on each negotiated point will be sent to the respective bidder as a provisional Notice of Award to be signed off as acceptance of the final definitive document capturing the negotiated points and the PPP Agreement will be updated accordingly, providing as such the Final PPP Agreement.

Check

As per the P3A Regulation on Process Flow, the principle of re-approval only applies in case of deviations.

> *At least seven (07) business days prior to the execution of the public private partnership agreement, the implementing agency shall provide a written certification to the Authority from its independent third-party advisors that provisions of the final public private partnership agreement are consistent with the terms and conditions approved by the Board, by the risk management unit and, if applicable, by ECNEC. If, however, at any stage of the process leading to the execution of the public private partnership agreement, there is a deviation from any of the terms of the project proposal which had been approved, an amended project proposal, reflecting such deviation, shall be submitted to the Board for re-approval.*

However, it is recommended that in the event any modifications have been made to the documents, especially the PPP Agreement, to consult with the P3A/RMU for consistency with the approved terms and conditions (and the need, if applicable, of requesting re-approval on any aspect). It is not uncommon that the final PPP agreement will differ from the draft PPP Agreement as prepared prior to tender launch and as to be approved in principal by IA. Main differences can come from the following activities:

(i) First and foremost the actual price for the scope of work as per the financial proposal of the winning bidder which most likely will be different for the price assumed when preparing the shadow bid model underlying the PPP; and

(ii) Possible amendments following requests for clarification from bidders arising from inaccuracies, ambiguities and or omissions in the draft PPP agreement; and

(iii) Possible amendments following requests for clarification from bidders to (i) address possible issues reflected in the draft PPP agreement that might hamper the bankability, and or (ii) improve the quality of the possible technical solutions in terms of value for people and or value for money; and

(iv) Possible amendments following negotiations with the selected bidder to ensure bankability of the arrangement and or improve the quality of the technical solution subject to its affordability and value for money.

ANNEXES: TEMPLATES AND METHODS

ANNEX I (A): GENDER CONSIDERATIONS IN PROJECT FEASIBILITY ASSESSMENT[6]

Consultations with women and men ensure broader project support within the community, while enhancing women's participation and incorporating their perspectives helps to bring wider benefits to users. A summary of gender issues for consideration in a project feasibility assessment at the PQP stage are provided below.

Area	Main Gender Issues & Questions
Economic analysis	Gender aspects of economic analysis can be incorporated through collection of sex-disaggregated data to analyze benefits of the project for women (direct and indirect). For example, by establishing the current ratio of users between men and women as a baseline, we can factor in the change in number of women users by integrating gender-inclusive design features of the proposed infrastructure. Based on this analysis, if an increase in the number of women users is expected, then additional benefits can be quantified and reflected in the cost–benefit comparison. Potential questions to explore may cover the following: • What is the current access to services and infrastructure for men and women? • Are there specific gender design features (which could be identified in the technical due diligence) that could facilitate an increase in women's access and use of the infrastructure and/or services? • How can an increase in women users be factored into the projected economic benefits and returns from the infrastructure and/or service compared with additional costs that may be required to incorporate gender-inclusive design features?
Financial analysis	In financial analysis, PPP projects can explore demand by women users for the product or service they offer. Such demand, as well as links and correlation between the intended number of women and men users, is analyzed and considered for the fee structure. Questions to explore may include the following: • How big an increase in women users can the project expect?

[6] Source: Asian Development Bank, "A Tool Kit for Promoting Gender Equality in Public-Private Partnerships (November 2023) - https://www.adb.org/sites/default/files/publication/924806/tool-kit-promoting-gender-equality-public-private-partnerships.pdf

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<table>
<tr><td></td><td>How can women contribute to the expansion of the overall user base and increase cash flow?
How can affordability impact women’s and men’s use of product and services?
Are subsidies envisaged and/or available to ensure affordability among vulnerable groups?
What will be the net financial impact of cost increases because of gender considerations and revenue increases generated through the capturing of women users?</td></tr>
<tr><td>Technical due diligence</td><td>During technical due diligence, technical specifications of planned infrastructure will be reviewed to see if gender needs can be addressed by optimizing certain technical details, or if new facilities or components are needed to make it gender-inclusive.
Does the project have any gender-inclusive design features that can facilitate women’s access, safety, and affordability of the infrastructure and/or services?
Is such design implementable? If not, could gender issues be addressed at the service level?
Will the project facilitate the narrowing down of gender gaps (e.g., women’s economic participation; sexual exploitation, abuse, and harassment risks)?</td></tr>
<tr><td>Legal due diligence</td><td>Applying a gender lens to legal due diligence could include the following aspects and considerations:
Are the responsibilities of addressing genders issues reasonably allocated across project parties under the project contracts?
What are labor laws, and do they allow equal participation of women across sectors? Are there any laws that address women’s entrepreneurship?
Do large and small equipment suppliers and/or construction companies have equal access to participate in a bid? Are there any monopoly-preventive provisions?</td></tr>
</table>

ANNEX I (B): INCORPORATING GENDER CONSIDERATIONS IN PUBLIC-PRIVATE PARTNERSHIP CONTRACTS[7]

Certain gender considerations may be taken into account when drafting PPP contracts, which the private party/ concessionaire shall be responsible to fulfill. These considerations should be aligned with Pakistan's national gender laws/ policies. Examples of gender sensitive performance indicators and provisions, which may be drafted into PPP contracts for the private party/ concessionaire, are summarized as follows:

Gender Provision	Indicators (Examples)
Ensure proper allocation of responsibilities of gender actions	It is the collective responsibility of the Implementing Agency (IA) and the private party/ concessionaire to monitor any changes and/or amendments to gender-related laws and policies, and to undertake key actions required by relevant laws. This need to be clearly defined and provided in project contracts.
Develop a gender-sensitive stakeholder engagement plan that demonstrates the engagement of men and women, including how information related to the project is disclosed and how grievance mechanisms are established and made accessible to all	Stakeholder and community engagement plan outlining specific measures to engage women is developed. Gender-differentiated priorities, needs, and challenges are identified and included in the environmental and social (E&S) impact assessment, resettlement plans, and/or other assessments. Information on how the grievance redress mechanism receives and facilitates resolution of concerns raised by women and men about the concessionaires'/ private parties' performance is shared in periodic reports.
Promote women's employment	Minimum target of women employed during the project cycle is established (based on data about existing participation of women in the sector or area). Internship opportunities to bring more women into the sector is developed (in cases where there may not be enough women to take up new employment opportunities). Statistics and sex-disaggregated data about the number of women employed are shared in periodic reports.
Prevent and address sexual exploitation, abuse, and harassment within the company as well as project sites	Code of conduct and/or policy to prevent and address sexual exploitation, abuse, and harassment in the workplace and project site are in place and/or developed. Reference to awareness raising on women's safety and prevention of sexual exploitation, abuse, and harassment are shared in periodic reports.

[7] Source: Asian Development Bank, "A Tool Kit for Promoting Gender Equality in Public-Private Partnerships (November 2023) - https://www.adb.org/sites/default/files/publication/924806/tool-kit-promoting-gender-equality-public-private-partnerships.pdf

Develop and/or adopt gender-inclusive workplace practices	Gender-inclusive workplace policies are introduced (e.g., gender-inclusive human resource policy focusing on retention, skills development, mentorship, and career advancement of women; equal employment opportunities policy; parental leave policy; and special provisions for women posted in field offices and/or remote locations). Practices to support a gender-inclusive workplace are introduced (e.g., awareness raising on safe workplace practices; zero-tolerance for sexual exploitation, abuse, and harassment; private and safe facilities for women and men; separate toilet facilities for women and men; childcare support that enables women to engage in employment opportunities; provision of creche services in the workplace; and provision of flexible work shifts etc.).
Address gender-differentiated needs for infrastructure and services	Information about how women's specific needs for access, safety, and affordability have been taken into account in the delivery of services is shared in periodic reports. Sex-disaggregated data about the users of the infrastructure and service are collected and shared periodically in reports.

ANNEX II: PCP Template

No.	Item	Description
1	**General**	
1.1	Project Name	
1.2	Proponent Name (IA, CDWP or Private Party)	
1.3	Sector	
1.4	Qualification documents of the Proponent (*Unsolicited proposals only)*	
2	**Project Description**	
2.1	Project definition and need	
2.2	Indicative contract period	
2.3	Socio-economic impact	
2.4	Applicable Government projects and priorities*	
2.5	Key outputs / outcomes sought	
3	**Project Physical and Financial Characteristics**	
3.1	Expected size of project	
3.2	Greenfield / Brownfield	
3.3	Capital expenditure estimate	
3.4	Life-cycle cost estimates	
3.5	Indicative demand and revenue streams	
3.6	Land acquisition and resettlement requirements	
4	**Motivation for PPP Delivery Option**	
4.1	Justification and benefits of PPP option	
4.2	Qualitative VfM	
5	**Status of Project Planning and Preparation**	
5.1	List of preparatory studies	
5.2	Evidence of public support*	
5.3	Possible alternatives to a PPP model, if any	
5.4	Other actions taken and existing gaps	

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No.	Item	Description
6	**Expected Role of IA and Private Entity**	
6.1	Role of the IA in the Project	
6.2	Role of the private party in the Project	
7	**Viability and Risk Assessment**	
7.1	Feasibility given applicable laws	
7.2	Environmental and social impacts (including specifically resilience and gender related issues	
7.3	Land acquisition and resettlement risk	
7.4	Project specific risks and mitigation measures	
7.5	Government support required	
8	**Next Steps**	
8.1	Implementation plan	
8.2	Project team and resources needed*	
8.3	Capacity building requirements*	

**Not applicable for unsolicited proposals*

Instructions

1. General

- Name of the project;
- Name of the entity submitting the proposal;
- Sector;
- For unsolicited proposals, provide documentation that establish legitimacy including:
  - i. Corporate and ownership structure
  - ii. Technical competence and experience with similar projects demonstrated through project references or details of past experience
  - iii. Describe standard policies, procedures, and practices that the entity has to assure quality. Please state if the company is ISO certified.
  - iv. Audited financial statements for the last three (3) years showing positive net worth and a qualified opinion by an independent auditor
  - v. Information regarding experts/personnel available with the firm (including access to pool of expertise) highlighting the key qualifications
  - vi. Signed Statement of Ethical Conduct:
    - We have not entered into any corrupt, fraudulent, coercive or collusive practice(s)
    - We understand our obligation(s) to allow the Government to inspect all records relating to the preparation of the project

- That no payments in connection with this procurement exercise have been made by us to anyone who is involved with the procurement process.

2. Project Description

- Brief definition and need;
- Expected socio-economic impact (including inter-linkages with other projects and development priorities, gender inclusivity and climate resilience);
- Key outputs / outcomes sought from the project;
    i. Expansion of infrastructure capacity
    ii. Expansion of service coverage
    iii. Improving quality of public services and infrastructure

3. Project Physical and Financial Characteristics

Expected size of the Project in terms of investments, O&M cost, approximate demand forecast, land area required etc.). To the extent known please specify:

- Green field or brown field project? (record of asset life and quality of the asset for brown field Project);
- Required asset creation/ upgrade/ refurbishment and associated capital expenditure;
- Required operation and maintenance activities and associated costs;
- Envisaged off-taker who is to pay for the project (user fee or government pays);
- Approximate demand- and / or revenue forecast and number of people who will benefit from the project;
- Project site, resettlement and land acquisition requirements;
- Indicative (cost-benefit) analysis of the economic / financial feasibility of the project.

4. Motivation for PPP Delivery option

Why does the implementing agency consider implementation through PPP? What benefits are expected from extended private sector involvement?

- Value for money through higher efficiency;
- Value for money to hire service quality;
- Private finance to meet budgetary limitations;
- List other relevant benefits.

5. Status of project planning, preparation and formal decision making

- Is the project part of the five-year plan or any other formal planning document;
- Is there evidence of political and local support for the Project;
- List preparatory studies / designs / masterplans that have been produced / planned (e.g. feasibility studies, social & environmental impacts studies);
- Other actions taken and/or investments done by the implementing agency (project owner) to realize the project;

- Describe (in terms of investment / financing, construction works / technical measures, operations and maintenance) how the project would be delivered if it was not considered for implementation through PPP;
- Gaps.

6. The expected role of Concessionaire/ Private Party and the Implementing Agency

- Describe role in terms of obligation to design, build, operate, maintain, finance;
- What is the envisaged revenue model for the private entity;
- Specific assumptions about risk transfer to the private sector;
- Role and responsibility of the public entity under the envisaged cooperation.

7. Viability of the envisaged Project (qualitative check list)

- Is the envisaged role of the private sector feasible in accordance with the applicable laws and regulations?
- Affordability?
- Are there relevant environmental and social impacts and can these be adequately mitigated or compensated?
- Is the project and/or the private sector revenue model exposed to significant risk factors that are difficult to manage / mitigate by the private sector?
- Is there a need for land acquisition / resettlement and if yes, should this be considered problematic / difficult?
- Does the project require government payments (availability payments and/ or financial support) and are these payments affordable to the Government?

8. Next steps

- Planning for the realization of the project;
- Establishment of project team and proper allocation of resources;
- Support and capacity building requirements.

ANNEX III: PCP Screening Template

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
A. Initial Screening				
Essential government infra/service	Infrastructure or services that government is traditionally expected to provide (i.e. a public sector responsibility)	PPP program has been initiated to improve public infrastructure and related services and therefore any PPP initiative needs to contribute to a more effective and efficient delivery of government responsibilities		
National strategic priority	GoP strategic priority at the Federal level	To tentatively confirm the strategic relevance of each and every initiative for a PPP in terms of contributing the government's strategic priorities including confirmation of resilience of and through the project and gender equality or women empowerment.		
Developmental relevance	Alignment with development goals of GoP and development partners (social, environmental, economic)	To tentatively indicate the merits of each and every initiative for a PPP in relation to the costs for implementing the project		

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Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
Suitability for PPP	PPP track record in sector; business case / available funding; size, replicability	To tentatively indicate that the PPP mechanism is likely to deliver value for money in terms of a more effective and efficient manner than other delivery schemes and that the PPP is likely to meet the requirements of investors and lenders within the government's fiscal capacity		
Likelihood of PPP project success	IA/political willingness; IA capacity; project readiness; alignment with development partners	To tentatively indicate that the IA is willing and able to manage the further development of the project.		
Climate & Gender Impact				
Criteria	**Description**	**Rationale**	**Score (1-4)[8]**	**Recommendations**
Level of Exposure & Adaptation to Climate Risk	A. Climate readiness / adaptation / resilience measures have been identified, analyzed, and considered in the project design. B. Some analysis identifying the project's level of climate readiness /			

[8] 1 being the lowest, and 4 being the highest.

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
	adaptation / resilience and possible measures is available. C. The project's level of climate readiness / adaptation / resilience has not been identified / analyzed so far. D. No data available			
GHG Emissions Reduction	A. Substantial amount of GHG emissions reduction is expected. B. Some degree of GHG emission reduction is expected C. No GHG emission reduction is expected. D. Not applicable / No data available			
Impact on Poverty Reduction	A. The project’s impact on poverty reduction is evident, and has been analyzed already, and / or appropriate			

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
	measures to ensure an impact on poverty reduction have been considered. B. The project's impact on poverty reduction is probable and some analysis is available. C. The project's impact on poverty reduction is not known or has not been analyzed so far. D. Not applicable / No data available			
Impact on Gender Equality	A. The project's impact on poverty reduction is evident, and has been analyzed already, and / or appropriate measures to ensure an impact on poverty reduction have been considered. B. The project's impact on poverty			

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
	reduction is probable and some analysis is available. C. The project's impact on poverty reduction is not known or has not been analyzed so far. D. Not applicable / No data available			

ANNEX V: PQP Screening Template

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
Information Adequacy	Is the PQP complete, accurate and adequately substantiated?	To ensure that the information provided through the PQP is sufficiently reliable to support the necessary decision-making		
Economic Soundness	Does the project generate an economic rate of return of at least [12%] as assessed through a Cost-benefit Analysis in accordance with international standards?	If the economic merits do not sufficiently outweigh the economic costs, the project will not add value to the country's economy and the project will also not be eligible for financial support from any of the recognised development partners.		
Financial Viability	Does the proposed PPP structure meet the requirements from investors and lenders in terms of generating a satisfactory return on equity respectively complying with the debt service cover requirements?	If the proposed PPP structure does not generate sufficient predictable revenues through either user charges or government support schemes there will not likely be sufficient interest from the market to ensure a competitive bidding process		
Value for Money	Does the proposed PPP generate	If the proposed PPP does not generate VFM, the		

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
	sufficient efficiency gains to offset the incremental transaction and capital costs as assessed through a VFM analysis in accordance with international standards?	government would be better off with using conventional procurement and financing schemes i.e. the PPP would be more costly to society than alternative delivery schemes		
Affordability	Are the required government support schemes in terms of direct liabilities through VGF and or government payment schemes affordable by the IA?	At this stage, the PQP should indicate the required financial support from government resources which are to be funded from either the IA's budget or the dedicated VGF facility and confirm their affordability taking into account the fiscal constraints.		
Risk Manageability	The project does not involve any material adverse risks that are not manageable by either the government or the private party.	At this stage, the PQP should identify and appraise all possible risks impeding the project including technical, financial, legal, environmental and social risks and suitable risk mitigation strategies should have been recommended.		

Screening Framework			P3A Conclusions	
Criteria	**Description**	**Rationale**	**Compliance?**	**Recommendations**
		Specifically for resilience, the PQP should • Incorporate disaster and climate risks under consolidated risk register • Identify key hazards, exposure to hazards, and vulnerabilities of the proposed PPP project • Understand the potential impact on the natural and built environment, people and communities.		

ANNEX VI: VFM Methodology Statement

The procurement of a PPP project represents Value for Money when — compared to a public sector procurement option — it delivers higher net economic benefits to society, taking into consideration the whole-life costs of the project.
The purpose of a Value for Money (VFM) assessment is to indicate if a project would be more efficiently implemented under a PPP scheme or under some other procurement method, from the perspective of the procuring authority and considering the broader interests of society.
An initial qualitative assessment is to be undertaken as part of the PCP preparation to substantiate the envisaged suitability for PPP and in more elaborated manner upon preparation of the PQP to confirm the procurement decision to tender the project as a PPP

Upon PCP Preparation

The PCP is to include a qualitative and high-level VFM assessment to tentatively indicate that the PPP mechanism is likely to deliver value for money in terms of a more effective and efficient manner than other delivery schemes and that the PPP is likely to meet the requirements of investors and lenders within the government's fiscal capacity.
The objective of the qualitative VFM analysis is to assess whether the proposed PPP is suitable for PPP. In order to avoid the risk of sinking resources into the analysis and structuring of a non-suitable PPP project.
The components of the qualitative VFM analysis are listed in the table below.

Component	Rationale
1. Is the value of the Life Cycle Cost more than PKR [2.5] billion?	In order to offset the higher transaction costs for PPP with efficiency gains it is commonly acknowledged that project value should not be too low. The project value does not only relate to the capital value but also the expenditures for operations and maintenance i.e. the life cycle costs. This allows the consideration of service PPPs that do not involve major capital costs but provide for maintenance and possibly operations by a private company and the potential to achieve consequent efficiency gains by tapping on private sector expertise and contractual incentives for improved performances. The life-cycle cost is the sum of the estimated capital costs and the operating expenditures.
2. Is the value of the Life Cycle Cost less than PKR [100] billion?	In order to ensure competitive pressure among possible service providers and capital providers it is commonly acknowledged that the project size should not be too large. Reduced competitive pressure will significantly impact the potential for value for money.
3. Can the project be defined in terms of output specifications	In order to allow for innovation and transfer of risks it is commonly acknowledged that the PPP should be based on

<table>
<tr><th>Component</th><th>Rationale</th></tr>
<tr><td>and required performance levels?</td><td>output specifications and performance levels and not on detailed input specifications.

For example:

<table>
<tr><th>Input</th><th>Output</th></tr>
<tr><td>Ensure that classrooms have at least two pairs of 240V power supply socket outlets available on each wall</td><td>Classrooms must have an adequate power supply to meet operational requirements</td></tr>
<tr><td>The school should have a 24-hour security patrol</td><td>Ensure that there are adequate arrangements in place to maintain the safety of the school and its users</td></tr>
</table>
The possibility to define the project in terms of output specifications and performance levels is to be indicated by the project description and possible PPP reference projects.</td></tr>
<tr><td>4. Can the project be accommodated within the legal framework as a PPP?</td><td>It is widely recognized, in all countries where PPPs are in use as a public procurement option, that the issue of legal capacity, or vires, of public authorities to enter into PPPs is seen as being crucial to their overall success. International experience has shown that investors in PPP projects require a high degree of legal certainty regarding the vires of public sector contracting authorities.

The Implementing Agency should state the statutory or regulatory basis for developing the project as a PPP, as well as the legal steps that will be required in its development. Information on the governing laws and regulations (e.g., what public body is authorized to perform the service) will help to identify proposals that will not make sense as PPPs.

In case of user charges, the Implementing Agency should indicate the regulatory framework allowing to charge users for the use of the service provided by the PPP.</td></tr>
<tr><td>5. Is the risk allocation appropriate and realistic?</td><td>Risk transfer is related to the search for efficiency which is the key motivation for undertaking a project as a PPP. Transferring the financial consequences of the project risk to the private partner creates the incentive for the private partner to deliver the infrastructure and service to the public as scheduled and in the required condition. This is based on the theory that the party in the greatest position of control with respect to a particular risk (in a PPP, this is usually the private party) has the best opportunity to reduce the likelihood of the risk eventuating and to control the consequences of the risk if it materializes. Hence, the appropriate transfer of risk</td></tr>
</table>

Component	Rationale
	generates incentives for the private sector to supply timely, cost effective and more innovative solutions. The envisaged risk allocation should allocate at least the construction and the performance risk to the private partner though these risks should also be manageable by the private partner. For example, it is questionable whether the transfer of the construction risk for a project that is exposed to substantial degree of soil risk (e.g. soil pollution) is appropriate. The private partner will have to make substantial investments to assess the uncertainties with regard to the soil in order to develop a suitable technical and financial proposal.
6. Can the revenues for the Private Partner be linked to demand and or performance?	The most effective way of transferring responsibility and significant risks over the life of the contract is to compensate the contractor (the private partner in a PPP) on the basis of the performance of the asset (in the sense of quality of service) or on the basis of the level of use, or a combination thereof. Typically, the performance of the asset will depend on the degree to which agreed service levels or the level or volume of use (when the main objective is to extract the financial value of the asset as a revenue maker) are met. The latter case is generally the case in user-pays PPPs, and the former is generally the case in government-pay PPPs. The link to performance and/or use also results in another particular feature of infrastructure PPPs: the contractor will only receive payments (or most of the payments) once the infrastructure asset is completed, that is, the procuring authority will pay only (or significantly) once the asset is in service.
7. Are there any reference cases for the proposed PPP?	To achieve Value for Money it is of the utmost importance that there is sufficient competition. The more bidders, the more attractive the proposition is. If similar PPPs have been done elsewhere, preferably in the region, it indicates that there are a number of private entities willing and able to bid for such contracts (subject to other conditions) i.e. similar in terms of sector and PPP mode. Consequently, proposed PPPs projects should have peers in terms of sector and mode wise comparable projects.
8. Does the Implementing Agency have the capacity to implement the project as a PPP?	PCP needs to demonstrate whether the Implementing Agency: • Will establish a project implementation unit and or allocate sufficient capacity to prepare and implement the project;

Component	Rationale
	• Will make use of external consultants or other government agencies for further project preparation • Has experience with developing, implementing and overseeing PPP or project finance-based projects and if this will be used for the benefit of this proposed project
9. Are there any issues impeding the implementation of the project as a PPP?	There may be reasons not captured in the aforementioned criteria which may impact the likelihood of successfully implementing the project as a PPP. Such issues and their possible implications can be described here.

All criteria of the checklist should be positively assessed. Any negative assessment will imply a reason not to consider PPP. The result of the qualitative VFM analysis may be one of the following;

1. The project appears to be suitable for PPP and can move on to the next stage;
2. The project is not suitable as a PPP. Appraising the project for traditional procurement methods is recommended if a public budget is available; and
3. The project is missing relevant information, or there is a need to clarify some uncertainties. In this case, P3A has to state the project's weaknesses and recommend a further analysis by the Implementing Agency

Upon PQP Preparation

The methodology for the quantitative value for money analysis is based on a set of generic assumptions for increased efficiency as a result of using PPP for delivering a project. These generic assumptions are to be completed in the Feasibility Study with the project specific assumptions and upon subsequent stages with the parameters of the Financial Proposal of the Preferred Bidder and any relevant changes from contract negotiations and or contract variations.

Preparation of the quantitative value for money analysis in the Feasibility Study

The analysis upon project preparation in the Feasibility Study should be done in 10 steps:

1. Produce a raw PSC
2. Produce a risk-adjusted PSC
3. Assess the impact of higher transaction costs for PPP
4. Assess the impact of higher capital costs for PPP
5. Assess the impact of reduced risk of delays in case of PPP
6. Assess the impact of reduced risk of cost overruns in case of PPP
7. Assess the impact of possible efficiency gains in case of PPP
8. Compare the PSC with the PPP
9. Analyze the sensitivity of the results
10. Conclude on the value for money analysis

Next these steps are further described and illustrated including the available empirical evidence for the generic assumptions (indicated in red) and their impact on the project specific assumptions (indicated in red).

The value of the PSC respectively the PPP is assessed as the Net Present Value of the average funding required per year i.e. the average funding which has to be provided by the users and or the government in order to recover the life cycle costs and ensure a fair return to the capital providers i.e. the government in case of the PSC and investors and banks in case of the PPP. The average funding per year is calculated using a goal seek (indicated in blue) i.e. how much should the average funding per year be so that the NPV is zero (implying that all costs have been recovered including a fair return to the capital providers). The discount rate used to discount the average funding requirement is the yield on government borrowings in PKR reflecting the opportunity cost of capital for the society and for the purpose of explanation set at [10%].

In principle the analysis is to be done in PKR as funding essentially comes from either government or users in PKR. If funding / revenues is in hard currency e.g. dollars as is the case typically for power projects, and the majority of the outgoing cash flows (e.g. capital expenditures, debt service and or operating expenditures) it could be considered to do the VFM analysis in dollars. In this case the government cost of borrowing needs to be adjusted for the currency risk.

The different steps are illustrated assuming a hypothetical project with a capital costs of 100, a construction period of 2 years or 24 months and annual operating expenditures of 10. The total duration of the project is 10 years[9].

Step 1: Produce a raw PSC

The first step is to estimate the life cycle costs under the assumption of a traditional procurement of the civil works or the construction of the infrastructure assess and a separate arrangement for the operations and maintenance of the asset.

The life cycle costs should exclude any taxes. These are defined by government regulations and are not affected by project or contract management decisions. Moreover, taxes reflect distribution of wealth. It is merely an instrument of distributing wealth from consumers to the government allowing the government to make investments in projects contributing to the economy rather than consumers.

The life cycle costs should reflect the scope of responsibilities envisaged to be transferred to the private partner. Typical retained responsibilities that are to be excluded from the value for

[9] Assumed is an inflation rate of 0% i.e. no difference between the nominal and real life-cycle costs of the hypothetical project. In practice, preference is given to a VFM analysis in nominal terms to allow for alignment with the shadow bid model and no need for adjustment of the government cost of borrowing and the WACC.

money analysis include land acquisition and any supporting infrastructure that is to be provided by the government (for example access roads).

The life cycle costs for the hypothetical project imply that the average funding per year required is 30. This is the amount required on average to recover the costs including the cost of borrowing by the government.

The consequent NPV of these annual funding requirements amounts up to 160 which is the value of the raw PSC.

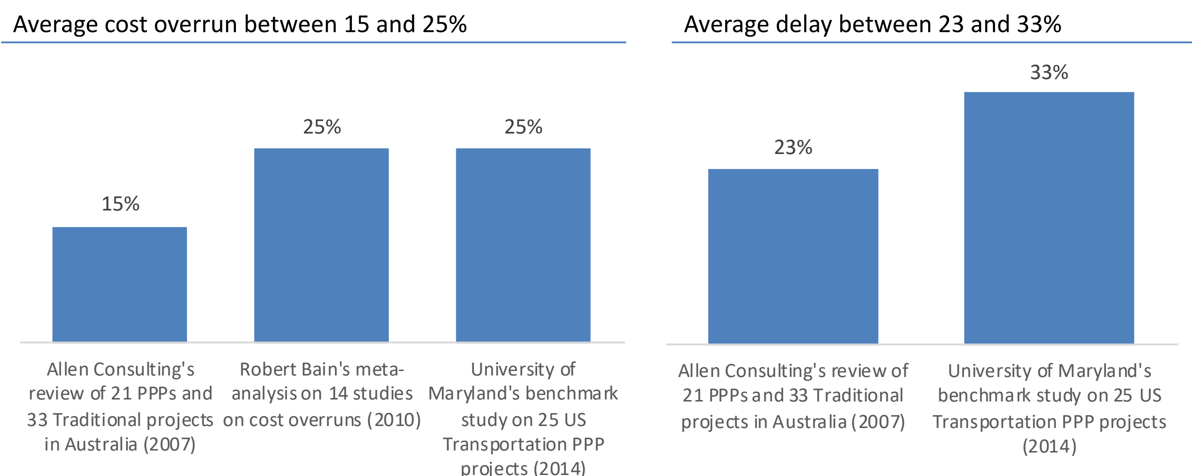
Step 1: Raw PSC	
	PSC
Construction Costs	100.00
Construction Period (months)	24.0
Operating Expenditures p.a.	10.00
Government Cost of Borrowing	10%
NPV of Funding Requirement	**158**

Year	0	1	2	3	4	5	6	7	8	9	10
Funding requirement				30	30	30	30	30	30	30	30
CAPEX		50	50								
OPEX				10	10	10	10	10	10	10	10
Net Cash Flows	-1	-50	-50	20	20	20	20	20	20	20	20
Cost of Capital	10%										
NPV	-0										

Step 2: produce a risk-adjusted PSC

It is well recognized that delivering infrastructure projects is subject to a substantial risks of cost overruns and delays. This is a universal principle and not linked to specific countries. International empirical research concludes that on average 7 to 9 out of 10 projects have cost overruns and 7 to 8 projects have delays[10]. Further empirical research indicates that the average value of the cost overruns is in the range of 15 to 25% (though some studies also conclude that cost overruns between 50 and 100% are not uncommon). The extent of delays is on average in the range of 23 to 33%.

Figure: Conclusions empirical research on average cost overruns and delays



These cost overruns and delays are caused primarily by 2 reasons:

1. Optimism bias i.e. the tendency upon project preparation to present projects in a favorable manner to persuade decision makers to approve projects;

[10] Bent Flyvbjerg; Megaprojects and risks (2003) and UK's National Audit Office: Modernising Construction (2001)

2. The use of traditional contracting which typically awards contracts based on the lowest price thereby giving an incentive to contractors to delay projects and escalate projects in order to increase their profit margin.

In view of these international experiences and in the absence of relevant data in the Pakistani context and assuming that the risk of cost overruns and delays in Pakistan will not be substantially differ from other countries, the default assumption for cost overrun is set at [20%] and for extent of delay at [30%].

For the hypothetical project, the implication is the estimate for CAPEX increases to 120 and the estimated construction period increases from 24 months to 31.2 months. As a result, the required average funding per year will increase from 30 to 35.7 taking into account that in the first year of operation, the asset will only be operational i.e. eligible for receiving funding 4.8 months. Consequently, the NPV of the PSC will increase from 158 to 171 because of this risk adjustment.

Step 2: Risk Adjusted PSC	
	PSC
Cost Overruns	20%
Risk Adj Construction Costs	120.00
Delays	30%
Risk Adj Construction Period	31.2
NPV of Funding Requirement	**171**

year	0	1	2	3	4	5	6	7	8	9	10
Funding requirement				14	35.7	36	36	36	36	36	36
CAPEX		50	50	20							
OPEX				4	10	10	10	10	10	10	10
Net Cash Flows		-50	-50	-2	26	26	26	26	26	26	26
Cost of Capital	10%										
NPV	-0										

Step 3: Assess the impact of higher transaction costs for PPP

The use of PPP is generally assumed to have higher transaction costs than the use of traditional procurement. Lawyers and financial advisors will have to be hired to support the Implementing Agency in the preparation of tender documents including the draft PPP agreement, the evaluation of qualifications and proposals, negotiations and finalizing the agreement.

This applies not only to the transaction costs for the contracting authority. Also, the bidders will incur higher bid costs for a PPP project than for a traditional contract.

Although the concept of higher transaction costs for PPPs is well recognized, there is limited empirical research available to confirm this hypothesis. And the limited research that is available does not take into account the difference between transaction costs and also monitoring costs during the operations phase. How much will the contracting authority spend on contract monitoring for a PPP vis-à-vis traditional project delivery when most of the maintenance activities typically will be contracted in small contracts.

For the time being, the most relevant research is being provided by the EIB which concludes that on average the costs to the contracting authority for preparing and delivering a PPP tender are approximately 3.5% of the capital costs and for the winning bidder 3.8% in order to prepare

a proposal and conclude an agreement[11] (obviously also the failed bidders will incur costs though these will not be recovered through government and or users).

In total the transaction costs for a PPP that have to be recovered amount up to some 7% on average. This will have to be compared with the transaction costs for a traditional procurement. Regretfully there is no specific empirical research to substantiate such costs. The EU has provided a general study on the costs of public procurement in 2011 concluding that the transaction costs are one average 1.4% of the procurement value[12]. However, the study encompasses all types of procurement including services. Infrastructure is likely to be on the top end of the range in view of its complexity, say around 3-4%.[13]

Recognizing the principle that PPP has higher transaction costs than traditional procurement, though taking into account the lagging empirical evidence, this Manual assumes that the transaction costs for public procurement are [2%] and for PPP [4%] of the risk-adjusted PSC (reducing somewhat the relevance of the higher transaction costs).

The implication for the hypothetical project is that the average annual funding requirement for the PPP option is 36.3 compared to 35.7 for the traditional procurement without transaction costs and the NPV is 174.

Step 3: Higher Transaction costs			Year	0	1	2	3	4	5	6	7	8	9	10
	PSC	PPP	Funding requirement				15	36.3	36	36	36	36	36	36
As % of CAPEX	2.0%	4.0%	Transaction costs	2										
Transaction Costs	2.40	4.80	CAPEX		50	50	20							
			OPEX				4	10	10	10	10	10	10	10
			Net Cash Flows	-2	-50	-50	-9	26	26	26	26	26	26	26
			Cost of Capital	10%										
NPV of Funding Requirement	**171**	**174**	NPV	0										

Step 4: Assess the impact of higher capital costs for PPP

A second major drawback from PPP concerns the higher cost of capital for a PPP in comparison with conventional project delivery. The cost of borrowing upon conventional project delivery is assumed to be approximated by the yield on long-term government borrowing i.e. 10%.

As for the PPP option, the cost of capital assumption is project specific and based on the Weighted Average Cost of Capital (WACC). The key drivers for the WACC are the possible leverage (ratio between debt and equity) and the cost of equity and the cost of debt. The cost of equity and debt include a risk premium based on the systematic risk of the sector of the respective project and taking into account the seniority of the source of capital. As such the

[11] Gerti Dudkin and Timo Välilä, Transaction costs in Public Private partnerships; a first look at the evidence (EIB 2005)

[12] EU: Public procurement in Europe, Cost and effectiveness (2011)

[13] As a rule of thumb, transaction costs including monitoring costs as assumed at 8 – 10% (1% for FS, 3-4% for design/bidding and 3-4% for project monitoring / contract supervision. The costs for the FS can be considered as sunk costs and with regard to the cost for project monitoring it is questionable whether the costs for monitoring a PPP contract will be substantially different from the costs for preparing and managing maintenance and operations activities. Therefor the focus is on the tender costs.

WACC essentially includes the private sector's valuation of the risks transferred to the private partner.

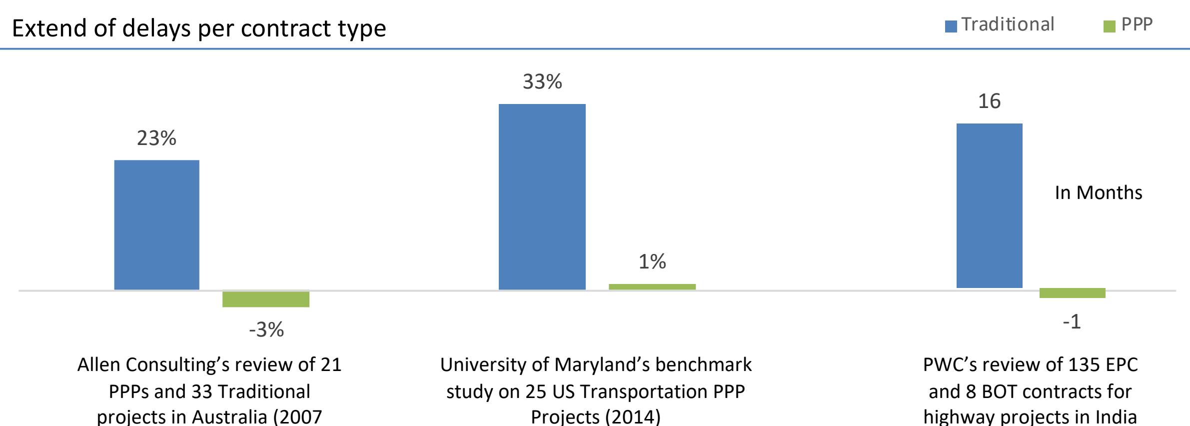
For the hypothetical project, a WACC is assumed of 15%. The implication is that the average annual funding requirement increases from 36.2 to 42.3 in order to recover the life cycle costs and provide a return on the capital provided of 15%. The NPV of the annual funding requirements increases from 173 to 203. Based on these PPP drawbacks i.e. the higher transaction costs and the higher capital costs, the PPP is substantially more costly than the PSC.

Step 4: Higher Cost of Capital			Year	0	1	2	3	4	5	6	7	8	9	10
	PSC	PPP	Funding requirement				17	42.3	42	42	42	42	42	42
Cost of Capital	10%	15%	Transaction costs	2										
			CAPEX		50	50	20							
			OPEX				4	10	10	10	10	10	10	10
			Net Cash Flows	-2	-50	-50	-7	32	32	32	32	32	32	32
			Cost of Capital	15%										
NPV of Funding Requirement	**171**	**203**	NPV	-0										

Step 5: Assess the impact of reduced risk of delays in case of PPP

The PPP drawbacks have to be offset by the increased efficiency of using PPP. The first notably benefit of using PPP is an increase in the probability of delivering PPP in time. Available empirical research from Australia, US and India conclude overwhelmingly that the extent of delays reduces to almost zero in case of PPP whereas traditional procurement experienced on average delays of 23 to 33%.

Figure: Conclusions empirical research on delays of traditional procurement vs PPP



This benefit is driven by the incentive for the private partner to deliver the project on time. Contrary to traditional procurement where the contractor has an incentive to delay the project implementation by seeking variation orders and increase its profit margin, the PPP implies that the revenues will start when the asset is operational, so the contractor will do everything within its power to deliver on time. The option of variation orders has been substantially reduced because the design and construction risk have been transferred to the private partner. Further, the use of private finance implies that the banks will have had a thorough due diligence of the project planning confirming that the planning is achievable, and they will monitor the progress carefully because the sooner the project starts receiving revenues, the sooner the debt can be serviced.

In view of this principle evidenced by international research it is assumed for the purpose of the value for money analysis that the extent of delays is reduced from [30%] in case of traditional procurement to [0%] in case of PPP, unless the feasibility study demonstrates otherwise[14].

For the hypothetical project this assumption means that the construction period is reduced from 31.2 months to 24 months and that the life cycle cost profile is adjusted accordingly. The average annual funding requirement consequently reduces from 42.3 to 39.5 and the NPV of these funding requirements reduces from 203 to 177.

Step 5: Reduced Delays		
	PSC	PPP
Delays	30%	0%
Risk Adj Construction Period	31.2	24.0
NPV of Funding Requirement	**171**	**177**

year	0	1	2	3	4	5	6	7	8	9	10
Funding requirement				39	39.5	39	39	29	39	39	39
Transaction costs	2										
CAPEX		60	60								
OPEX				10	10	10	10	10	10	10	10
Net Cash Flows	-2	-60	-60	29	29	29	29	29	29	29	29
Cost of Capital	15%										
NPV	-0										

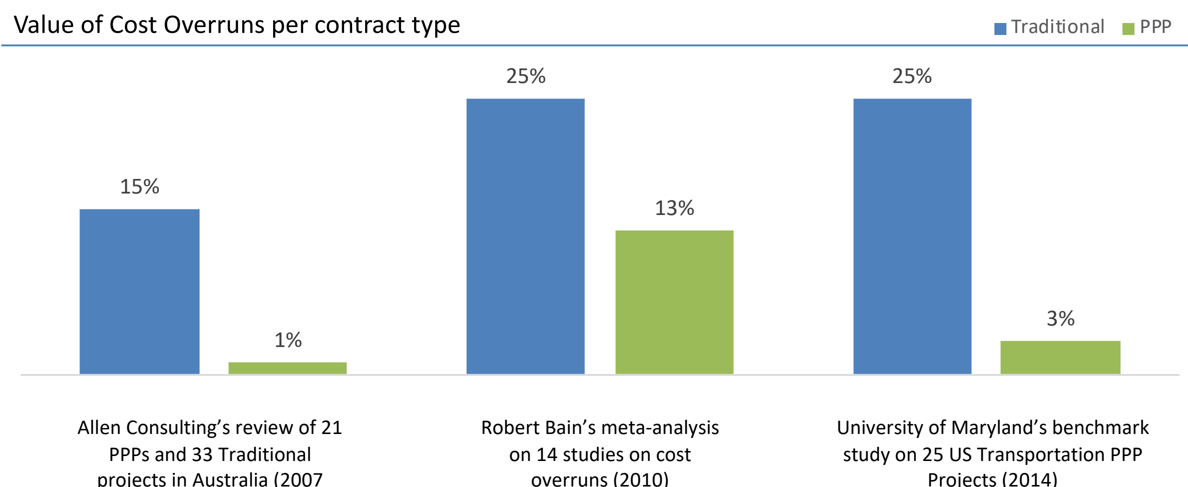
Step 6: Assess the impact of reduced risk of cost overruns in case of PPP

The second most notable benefit from PPP refers to the reduced risks of cost overruns in case of PPP. Also driven by the transfer of the design and construction risks the incentive to seek variation orders to increase the profit has been marginalized. And the additional layer of due diligence by the banks increases the reliability of the cost estimate and tightens the control of costs upon implementation.

Also this benefit has been confirmed by the results of international research which concludes that on average the extent of cost overruns decreases from 15-25% in case of traditional procurement to 1 to 13% in case of PPP.

[14] It is recognized that delays can be caused by a variety of reasons, including sector-specific complexities, legislation, environment, project-specific complexity, quality of contract, quality of contractor, quality of contracting authority, etc. However, estimating a project specific probability of delay would require a fairly sophisticated risk analysis including estimating the probability of occurrence of specific events and the impact of such events and using for example Monte Carlo risk simulation software. This would require quite specific analytical skills and availability of historical data to substantiate the assumptions, both of which are largely absent in Pakistan. In time, this capacity and data may be developed allowing for a more accurate assessment of the risk of delays.

Figure: Conclusions empirical research on cost overruns of traditional procurement vs PPP



In view of this principle evidenced by international research it is assumed for the purpose of the value for money analysis that the extent of cost overruns is reduced from [20%] in case of traditional procurement to [10%] in case of PPP[15], unless the feasibility study demonstrates otherwise. With regard to the extent of cost overruns in case of PPP, the high end of the margin is assumed in view of the nascent level of development of the PPP market in Pakistan.

For the hypothetical project this assumption means that the construction cost estimate is reduced from 120 to 110. The average annual funding requirement consequently reduces from 39.3 to 37.1 and the NPV of these funding requirements further reduces from 177 to 166.

Step 6: Reduced Cost Overruns		
	PSC	PPP
Cost Overruns	20%	10%
Risk Adj Construction Costs	120.00	110.00
NPV of Funding Requirement	**171**	**166**

Year	0	1	2	3	4	5	6	7	8	9	10
Funding requirement				37	37.1	37	37	37	37	37	37
Transaction costs	2										
CAPEX		55	55								
OPEX				10	10	10	10	10	10	10	10
Net Cash Flows	-2	-55	-55	27	27	27	27	27	27	27	27
Cost of Capital	15%										
NPV	-0										

Step 7: Assess the impact of possible efficiency gains in case of PPP

The third major benefit of PPP concerns the optimization of the life-cycle costs and or efficiency gains. This benefit is enabled through (i) incentive to optimize life-cycle costs in order to maximize profits over the life of the contract (build a better asset to reduce O&M costs) compared to the incentive to minimize construction costs in case of traditional procurement in order to win the contract and (ii) more effective cost and risk management capabilities by the private sector than the public sector (for example, more flexible management of labor, less rigid procurement requirements, etc.).

This principle is also evidenced by international research from well established PPP markets concluding that on average PPP leads to 11 to 28% lower costs during the life of the contract in comparison with the PSC.

[15] See also previous comment on risk of delays

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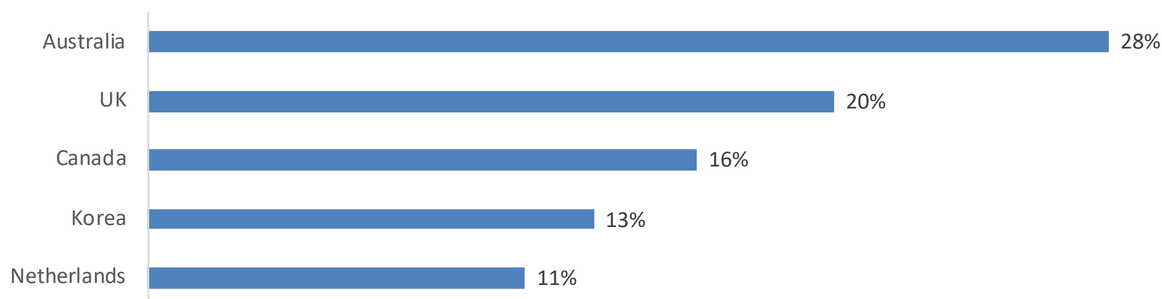
Figure: Conclusions empirical research on efficiency gains of PPP versus traditional procurement



Sources: NAO (UK), Intervistas (Canada), Allen Consulting (Australia), Ministry of Finance (Netherlands), KDI (Korea)

In view of this principle evidenced by international research it is assumed for the purpose of the value for money analysis that the concept of efficiency gains can be approximated by a reduction in the operating expenditures of [10%] in case of PPP[16], unless the feasibility study demonstrates otherwise. This is on the low end of the margin in order to avoid an unwarranted bias for PPP and also taking into account that the research may include a double counting of the reduced risk of cost overruns and delays.

The consequent estimates for the life cycle costs including the reduced cost overruns, delays and efficiency gains as well as the capital costs essentially reflects the private partner's view of the project, which should correspond with the shadow bid as to be prepared as part of the commercial feasibility analysis.

For the hypothetical project this assumption means that the estimate for operating expenditures for PPP reduces from 10 to 9. The average annual funding requirement consequently reduces from 37 to 36 and the NPV of these funding requirements further reduces from 166 to 162.

Step 7: Efficiency Gains			year	0	1	2	3	4	5	6	7	8	9	10
	PSC	PPP	Funding requirement				36	36.1	36	36	36	36	36	36
Efficiency Gains	0%	10%	Transaction costs	2										
Operating Expenditures p.a.	10.00	9.00	CAPEX		55	55								
			OPEX				9	9	9	9	9	9	9	9
			Net Cash Flows	-2	-55	-55	27	27	27	27	27	27	27	27
			Cost of Capital	15%										
NPV of Funding Requirement	**171**	**162**	NPV	-0										

[16] The available research as quoted does not distinguish between the impact of PPP on CAPEX vis-à-vis OPEX. The generally acknowledged benefit for a PPP is that life cycle costs are likely to be optimised for example by using more durable materials upon construction which will lead to reduced OPEX. In view of this assumption it ndoes ot make sense to reduce both CAPEX and OPEX. More efficient construction is likely to be offset by more durable materials so on balance it has been assumed that no efficiency gains apply for construction, only for operations.

Step 8: Compare the PSC with the PPP

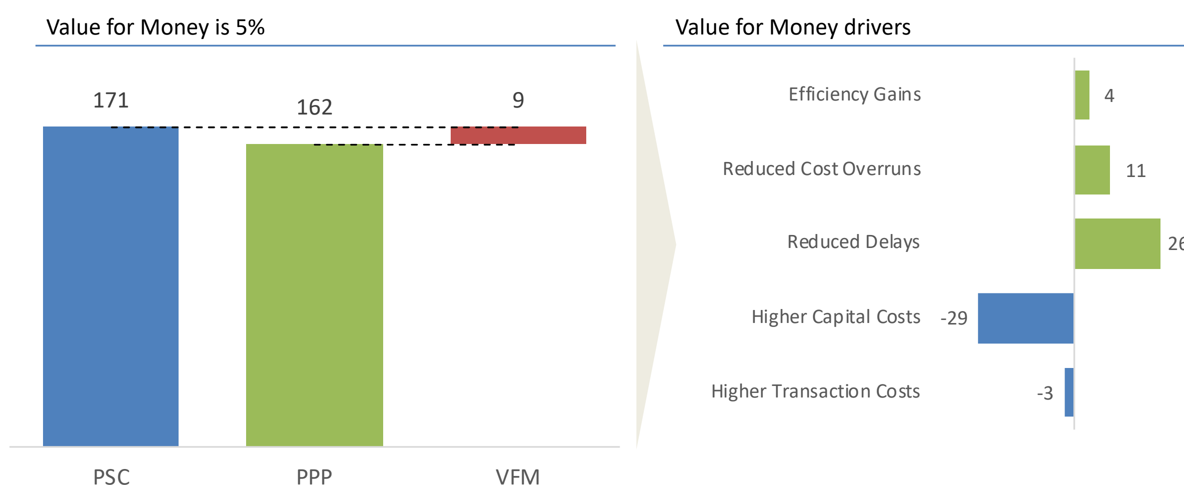
The next step is to compare the outcome of the calculations for the PPP with the PSC. The calculations indicate the value of the PSC respectively the PPP for the responsibilities that are envisaged to be transferred to the private partner.

For the hypothetical project the outcome of the calculations indicates that the value of the costs to the government and or users amount up to 171 in case of conventional project delivery. The PPP leads to a cost of 162[17]. This implies that the PPP can be considered beneficiary over the conventional project delivery. The estimated value for money amounts up to 8, which is some 5% of the value of the PSC. In other words, the PPP is expected to generate a saving of 5%.

This outcome implies that the benefits from the use of PPP outweight the drawbacks of PPP. The total value of the benefits amounts up to 41 whereas the value of the drawbacks is 32. The most notable benefit is the reduced risk of delays whereas the most significant drawback is the higher capital costs in case of PPP.

The results of the value for money analysis including the decomposition of the underlying value drivers can be summarized by the following figure.

Figure: Output quantitative value for money analysis



Step 9: Sensitivity Analysis

In view of the general nature of the assumptions for the generic parameters underlying the value for money analysis, the quantitative VFM analysis should also include a sensitivity analysis to test the robustness of the outcome of the comparison. The sensitivity analysis should be based on a downwards assumptions for the main value drivers (increasing the impact of the drawbacks and decreasing the impact of the benefits from PPP).

[17] This should be in line with the present value of the revenue requirements as per the shadow bid (discounted at the government cost of borrowing rate) expect for an adjustment for taxes as the VFM analysis should be done excluding any taxes (which do not drive value for money). In other words, the shadow bid model should be adjusted for taxes in order to align it with the value of the PPP as assessed in the VFM analysis.

	Base Case		Sensitivity	
	Differential	VFM	Differential	VFM
Transaction Costs	2%	5.4%	3%	4.50%
Cost of Capital	5%	5.4%	2%	3.90%
Delays	30%	5.4%	15%	6.90%
Cost Overruns	10%	5.4%	5%	2.30%
Efficiency Gains	10%	5.4%	5%	4.10%

The sensitivity analysis for the hypothetical project concludes that the outcome for the PPP remains positive even when the benefits are downsized, and the drawbacks are enhanced.

Step 10: Conclude on the value for money analysis

As highlighted by international experiences the quantitative VFM analysis should not be overemphasized. It should be presented in conjunction with the qualitative VFM analysis, updated if necessary and the rationale for using PPP (as already indicated in the PCN). Reference should also be made to the results of the related analyses, most notably:

(i) The commercial feasibility analysis indicating the viability of the PPP from an investor perspective in terms of a return on equity generated by the PPP which exceeds the required return on equity;

(ii) The bankability analysis indicating the viability of the PPP from a lender perspective in terms of debt service coverage generated by the PPP exceeding the required debt service coverage ratio cash;

(iii) The fiscal sustainability analysis indicating the viability of the PPP from the government perspective in terms of the direct and or contingent liabilities, if any, being able to be accommodated within the short- and medium-term budget framework;

(iv) The affordability analysis indicating the viability of the PPP from the user perspective in terms of the willingness and ability to pay the recommended user charges, if any.

The chapter on VFM analysis in the Feasibility should therefor include the following:

- **Scope of the PPP** i.e. description of the envisaged PPP arrangement including the proposed risk allocation;
- **Rationale for PPP** i.e. description of the need and or objectives for using PPP to deliver the project;
- **Suitability for PPP** based on the (updated) results of the qualitative VFM analysis;
- **Viability of the PPP** based on the results of the commercial, bankability, fiscal sustainability and affordability analyses.
- **Added Value of PPP** based on the outcome of the quantitative VFM analysis;
- **Conclusions and recommendations** for finalizing the project structuring

Project structuring refers the process followed for defining the risk structure, the financial structure (including the payment mechanism) and other key commercial terms of a PPP contract, as well as the structure or main features that will govern the tender process. The "structure" will be implanted into a set of documents (the RFP (and potentially the RFQ), and the contract itself).

Updating the value for money analysis

Upon the Feasibility Study, the VFM analysis will be based on estimates for the life cycle costs and capital costs for the scope of responsibilities scheduled to be transferred to the private partner, providing as such an indication of the expected value for money from using a PPP for delivering the project. Obviously, these estimates may change upon the actual implementation of the project. The quantitative VFM analysis is to be updated

1. Upon Bid Evaluation
2. Upon Contract Negotiations
3. Upon Contract Variations

1. Upon Bid Evaluation

The estimates as per the Feasibility Study can be different from the financial proposals that will be submitted by the bidders in response to the Request for Proposal. To confirm the added value of PPP the value for money analysis needs to be updated with the proposed life cycle and capital costs as per the Financial Proposal, the actual bid. This should be done only for the Financial Proposal from the Preferred Bidder i.e. the Most Advantageous Bidder.

To ensure a fair and relevant quantitative value for money analysis, the following adjustments have to made:

1. Exclude any taxes from the Financial Proposal. As indicated, taxes are merely a distribution of wealth and no indication of higher efficiency;
2. Exclude impact of higher transaction costs from the VFM analysis. These transaction costs would impact the costs for the government before launching a tender and for the bidder to respond to the tender. Upon Bid Evaluation, these costs are to be considered as sunk costs and have no added value in determining the added value of the PPP.

If the outcome of the VFM analysis upon Bid Evaluation is negative for the PPP i.e. the PPP is more expensive than the PSC, the Implementing Agency should reserve the right to cancel the tender and restructure the project. This is a right and not an obligation as there may be non-quantifiable considerations for continuing with the project as a PPP. The Request for Proposal should clearly stipulate the Implementing Agency’s right to cancel the tender in case the PPP exceeds the PSC threshold in order to avoid any claims.

2. Upon Contract Negotiation

If the negotiations, if any, on the contract result in a substantive revision of any of the cost items or the risk allocation, this should be reflected in an update of the quantitative VFM analysis. In general, it is recommended that any change to the draft contract should at least be

substantiated by a reasoned analysis considering the implication for the risk exposure to the government and the benefits of the project.

3. Upon Contract Variation

In case of a contract variation, if any, that results in a substantive revision of any of the cost items or the risk allocation, the quantitative VFM analysis should be updated. In general, it is recommended that any change to the contract should at least be substantiated by a reasoned analysis considering the implication for the risk exposure to the government and the benefits of the project.

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