

Government of Chhattisgarh
Department of Finance



Guidelines for Formulation, Appraisal and Approval of
Public Private Partnership Projects in the State of Chhattisgarh

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Guidelines for Formulation, Appraisal and Approval of Public Private Partnership Projects in the State of Chhattisgarh

Abbreviation

BOLT	Build Operate Lease Transfer
BOOT	Build Operate Own Transfer
BOT	Build Operate Transfer
PPPAC	Public Private Partnership Appraisal Committee
GoCG	Government of Chhattisgarh
GoI	Government of India
IRR	Internal Rate of Return
MCA	Model Concession Agreement
PPP	Public Private Partnership
RFP	Request for Proposals
RFQ	Request for Qualification
SPSEs	State Public Sector Enterprises
State	Chhattisgarh

Guidelines for Formulation, Appraisal and Approval of Public Private Partnership Projects in the State of Chhattisgarh

1. Introduction

- 1.1. Government of Chhattisgarh has issued a policy for PPP projects to be undertaken in the State. Detailed procedure to be followed for this purpose is specified in this document.

2. Institutional Structure

- 2.1. The institutional structure for the appraisal/approval mechanism is specified at Annex-I.

3. Applicability

- 3.1. These guidelines will apply to all PPP projects sponsored by the Departments of Government of Chhattisgarh or State Public Sector Undertakings (SPSUs), statutory authorities or other entities under their administrative control from the date of its issuance.
- 3.2. The procedure specified herein shall apply to all PPP projects undertaken by these entities *as above at 3.1.* The scope of PPP initiative shall be as per the PPP policy of the State.

4. Project Identification

- 4.1. The administrative / sponsoring Department or entity will identify the projects to be taken up through PPP and will undertake preparation of feasibility studies, project agreements etc. with the assistance of legal, financial and technical experts, as may be necessary.

5. Inter-departmental Consultations

- 5.1. The Administrative / Sponsoring Department may, if deemed necessary, discuss the details of the project and the terms of concession agreement in an inter-departmental consultative committee like Senior Secretaries Committee and comments, if any, may be incorporated or annexed to the proposal for consideration of PPPAC.
- 5.2. There could be projects, which involve more than one Department or entity. While considering such projects, PPPAC may seek participation of such Departments or entities.

6. 'In Principle' Approval of PPPAC

- 6.1. While seeking 'in principle' clearance of PPPAC, the Administrative Department shall circulate its proposal and associated documents to all members of the PPPAC in the format specified at Annex-II and accompanied by the pre-feasibility/feasibility report and a term-sheet containing the salient features of the proposed project agreements.
- 6.2. A meeting of the PPPAC will be convened within three weeks to consider the proposal for 'in principle' approval.
- 6.3. In cases where the PPP project is based on a Model Concession Agreement (MCA), duly approved by the GoCG, 'in principle' clearance by the PPPAC would not be necessary. In such cases, approval of the PPPAC may be obtained before inviting the financial bids as detailed in the subsequent sections.

7. Expression of Interest

- 7.1. Following the 'in principle' clearance of PPPAC, the Administrative Department may invite expressions of interest in the form of Request for Qualification (RFQ), as per the model document duly approved by the GoCG, to be followed by shortlisting of pre-qualified bidders..

8. Formulation of Project Documents

8.1. The documents that would need to be prepared would, inter alia, include the various agreements to be entered into with the concessionaire detailing the terms of the concession and the rights and obligations of the various parties. These project documents would vary depending on the sector and type of project. Typically, a PPP will involve the concession agreement that will specify the terms of the concession granted to the private party and will include the rights and obligations of all parties. There could be associated agreements based on specific requirements.

9. Appraisal/Approval of PPPAC

9.1. RFP (Request for Proposal) documents, i.e. invitation to submit financial bids, should normally include a copy of all the agreements that are proposed to be entered into with the successful bidder. After formulating the draft RFP, the Administrative / Sponsoring Department would seek clearance of the PPPAC before inviting the financial bids.

9.2. The proposal for seeking clearance of PPPAC will be circulated to all members of the PPPAC by Administrative Department in the format specified at Annex-III along with copies of all draft project agreements and the Project Report.

9.3. All member departments will review and appraise the project proposal, as per their scope, and forward their comments to the Administrative Department . Any other Department / entity involved will also forward written comments to the Administrative Department within the stipulated time period. The Administrative Department will submit written response to each of the comments.

9.4. The concession agreement and any supporting agreements/documents thereof, along with the PPPAC Memo (comprising of point wise replies of all comments), will be submitted for consideration of PPPAC. The PPPAC will take a view on the Appraisal Note and on the comments of different Departments, along with the response from the Administrative Department.

9.5. PPPAC will either recommend the proposal for approval of the competent authority (with or without modifications) or request the Administrative Department to make necessary changes for further consideration of PPPAC.

9.6. Once cleared by the PPPAC, the project would be put up to the competent authority for final approval. The competent authority for each project will be as per the prevailing delegation for administrative approval in the concerned department.

10. Invitation of Bids

10.1. Financial bids may be invited after final approval of the competent authority has been obtained. However, pending approval of the competent authority, financial bids could be invited after clearance of PPPAC has been received by the Administrative Department.

11. Time Frame

11.1. The time frame for the appraisal of projects under the above procedure is at Annex-IV.

12. Exemption from the above Procedure

12.1. Any procurement, that the Government of Chhattisgarh may by special order specify; where the subject matter of procurement is of a sensitive nature and the disclosure of which may jeopardize the internal security of the State.

Annex-I - Institutional Structure

Public Private Partnership Appraisal Committee

1. Pursuant to the notification of the Chhattisgarh Public Private partnership Policy a Public Private Partnership Appraisal Committee (PPPAC) has been set up comprising of the following:
 - i. Chief Secretary- Chairperson
 - ii. Additional Chief Secretary / Secretary, Finance & Planning Department - Member
 - iii. Principal Secretary/ Secretary, Department of Law - Member
 - iv. Member Secretary, State Planning Commission - Member
 - v. Principal Secretary/Secretary of the department concerned - Member Secretary
 - vi. One Expert from the related sector - Special Invitee

The Committee may co-opt such number of additional experts as may be deemed necessary.

2. The Committee shall be provided secretarial services by the concerned Administrative Department.
3. The Department of Finance will comment on the concession agreements from the financial angle, decide on guarantees to be extended and generally assesses risk allocation from the investment and banking perspectives. It would also ensure that projects are scrutinised from the perspective of government expenditure.
4. The State Planning Commission will prepare an appraisal note for the PPPAC providing specific suggestions for improving the concession terms, where this is possible.
5. Department of Law would also be represented on the PPP Appraisal Committee, as the concession agreements would require careful legal scrutiny.

Annex-II - Memorandum for PPP Appraisal Committee

For 'In Principle' Approval

S. No.	Item	Description
1	General	
1.1	Name of the Project	
1.2	Type of PPP (BOT, BOOT, BOLT, OMT etc.)	
1.3	Location (District/Town)	
1.4	Administrative Department / entity	
1.5	Name of Sponsoring Authority / Department / entity	
1.6	Name of the Implementing Agency / entity	
2	Project Description	
2.1	Brief description of the project	
2.2	Justification for the project	
2.3	Possible alternatives, if any	
2.4	Estimated capital costs with break-up under major heads of expenditure. Also indicate the basis of cost estimated.	
2.5	Phasing of investment	
2.6	Project Implementation Schedule (PIS)	
3	Financing Arrangements	
3.1	Sources of financing (equity, debt, VGF etc.)	
3.2	Indicate the revenue streams of the Project (annual flows over project life). Also indicate the underlying assumptions.	
3.3	Indicate the Net Present Value (NPV) of revenue streams with 12 percent discounting	
3.4	Who will fix the tariff/user charges? Please specify in detail.	

S. No.	Item	Description
3.5	Have any FIs been approached? If yes, their response may be indicated.	
3.6	Requirement of any support / funding from the Government of Chhattisgarh , if any, with its amount	
4	IRR	
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
5	Clearances	
5.1	Status of environmental clearances	
5.2	Clearance required from GoI/ Government of Chhattisgarh , local bodies and authorities	
5.3	Other statutory clearances / approvals required for the project	
5.4	Viability Gap Funding, if need to be requested	
5.5	Guarantees being sought, if any	
5.6	Other support required from the Government of Chhattisgarh , if any	
6	Support requested from GoI	
6.1	Support/ clearance required from GoI – to be specified	
7	Concession Agreement	
7.1	Term sheet of the proposed Concession Agreement (Attached at Appendix-A)	
8	Criteria for shortlisting	
8.1	Indicate the criteria for shortlisting (attach separate sheet if necessary)	
9	Others	
9.1	Remarks, if any	

Appendix-A - Term Sheet of the Proposed Concession Agreement

A. Sponsoring Department:

C. Legal Consultant:

B. Name and location of the Project:

D. Financial Consultant:

S. No.	Item	Description
1	General	
1.1	Scope of the Project (Please state in about 200 words)	
1.2	Nature of Concession to be granted	
1.3	Period of Concession and justification for fixing the period	
1.4	Estimated capital cost, if applicable	
1.5	Likely construction period, if any	
1.6	Estimated operation, management and maintenance cost, if applicable	
1.7	Conditions precedent for the parties for the concession to be effective	
1.8	Status of ownership of land, if land assets are applicable for the project	
2	Construction and O&M	
2.1	Monitoring of construction; whether an independent agency/engineer is contemplated	
2.2	Minimum Performance standards during the operation period, if applicable	
2.3	Minimum standards of Operation and Maintenance, if applicable	
2.4	Penalties for violation of prescribed O&M standards, if O&M is applicable	
2.5	Safety related provisions	
2.6	Environment related provisions	

S. No.	Item	Description
3	Financial	
3.1	Maximum period for achieving financial close	
3.2	Nature and extent of capital grant/subsidy contemplated with their amounts	
3.3	Bidding parameter (mentions justification if bidding parameters are related to capital subsidy or other similar parameters)	
3.4	Provisions for change of scope and the financial burden thereof	
3.5	Concession fee, if any, payable by the Concessionaire and milestones / periodicity of such payments	
3.6	Whether user charges/fee to be collected by the Concessionaire	
3.7	Indicate how the user fee is to be determined; the legal provisions in support of user fee (attach the relevant rules/notification); and the extent and nature of indexation for inflation	
3.8	Provisions, if any, for mitigating the risk of lower revenue collection	
3.9	Provisions relating to escrow account, if any	
3.10	Provisions relating to insurance	
3.11	Provisions relating to audit and certification of claims	
3.12	Provisions relating to assignment/substitution rights relating to lenders	
3.13	Provisions relating to change in law	
3.14	Provisions, if any for compulsory buy-back of assets upon termination/expiry	
3.15	Contingent liabilities of the government	
	a. Maximum Termination Payment for Government/ Authority Default	
	b. Maximum Termination Payment for Concessionaire Default	

S. No.	Item	Description
	c. Specify any other penalty, compensation or payment contemplated under the agreement	
4	Others	
4.1	Provisions relating to competing facilities, if any	
4.2	Specify the proposed Dispute Resolution Mechanism	
4.3	Specify the proposed governing law and jurisdiction	
4.4	Other remarks, if any	

Annex-III - Memorandum for PPP Appraisal Committee

For Final Approval

S. No.	Item	Description
1	General	
1.1	Name of the Project	
1.2	Type of PPP (BOT, BOOT, BOLT, OMT etc.)	
1.3	Location (District/Town)	
1.4	Administrative Department / entity	
1.5	Name of Sponsoring Authority / Department / entity	
1.6	Name of the Implementing Agency / entity	
2	Project Description	
2.1	Brief description of the project	
2.2	Justification for the project	
2.3	Possible alternatives, if any	
2.4	Estimated capital costs with break-up under major heads of expenditure. Also indicate the basis of cost estimated.	
2.5	Phasing of investment	
2.6	Project Implementation Schedule (PIS)	
3	Financing Arrangements	
3.1	Sources of financing (equity, debt, VGF etc.)	
3.2	Indicate the revenue streams of the Project (annual flows over project life). Also indicate the underlying assumptions.	
3.3	Indicate the Net Present Value (NPV) of revenue streams with 12 percent discounting	

S. No.	Item	Description
3.4	Who will fix the tariff/user charges? Please specify in detail.	
3.5	Have any FIs been approached? If yes, their response may be indicated.	
3.6	Requirement of any support / funding from the Government of Chhattisgarh, if any, with its amount	
4	IRR	
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
5	Clearances	
5.1	Status of environmental clearances	
5.2	Clearance required from GoI/ Government of Chhattisgarh , local bodies and authorities	
5.3	Other statutory clearances / approvals required for the project	
5.4	Viability Gap Funding, if need to be requested	
5.5	Guarantees being sought, if any	
5.6	Other support required from the Government of Chhattisgarh , if any	
6	Support requested from GoI	
6.1	Support/ clearance required from GoI – to be specified	
7	Concession Agreement	
7.1	Is the Concession Agreement based on MCA? If yes, indicate the variations, if any, in a detailed note (to be attached) and submit the Concession Agreement in track mode where the changes (additions and deletions) are visible	

S. No.	Item	Description
	If the Concession Agreement is not based on MCA, justification for the same to be provided in the form of a separate note	
7.2	Details of Concession Agreement (Attached at Appendix-A)	
8	Criteria for shortlisting	
8.1	Indicate the criteria for shortlisting (attach separate sheet if necessary)	
9	Others	
9.1	Remarks, if any	

Appendix-A – Brief particulars of the Concession Agreement

A. Sponsoring Department:

C. Legal Consultant:

B. Name and location of the Project:

D. Financial Consultant:

S. No.	Item	Description
1	General	
1.1	Scope of the Project (Please state in about 200 words)	
1.2	Nature of Concession to be granted	
1.3	Period of Concession and justification for fixing the period	
1.4	Estimated capital cost, if applicable	
1.5	Likely construction period, if any	
1.6	Estimated operation, management and maintenance cost, if applicable	
1.7	Conditions precedent for the parties for the concession to be effective	
1.8	Status of ownership of land, if land assets are applicable for the project	
2	Construction and O&M	
2.1	Monitoring of construction; whether an independent agency/engineer is contemplated	
2.2	Minimum Performance standards during the operation period, if applicable	
2.3	Minimum standards of Operation and Maintenance, if applicable	
2.4	Penalties for violation of prescribed O&M standards, if O&M is applicable	
2.5	Safety related provisions	
2.6	Environment related provisions	

S. No.	Item	Description
3	Financial	
3.1	Maximum period for achieving financial close	
3.2	Nature and extent of capital grant/subsidy stipulated, with their amounts	
3.3	Bidding parameter (mentions justification if bidding parameters are related to capital subsidy or other similar parameters)	
3.4	Provisions for change of scope and the financial burden thereof	
3.5	Concession fee, if any, payable by the Concessionaire and milestones / periodicity of such payments	
3.6	Whether user charges/fee to be collected by the Concessionaire	
3.7	Indicate how the user fee is to be determined; the legal provisions in support of user fee (attach the relevant rules/notification); and the extent and nature of indexation for inflation	
3.8	Provisions, if any, for mitigating the risk of lower revenue collection	
3.9	Provisions relating to escrow account, if any	
3.10	Provisions relating to insurance	
3.11	Provisions relating to audit and certification of claims	
3.12	Provisions relating to assignment/substitution rights relating to lenders	
3.13	Provisions relating to change in law	
3.14	Provisions, if any for compulsory buy-back of assets upon termination/expiry	
3.15	Contingent liabilities of the government	
	a. Maximum Termination Payment for Government/ Authority Default	
	b. Maximum Termination Payment for Concessionaire Default	

S. No.	Item	Description
	c. Specify any other penalty, compensation or payment contemplated under the agreement	
4	Others	
4.1	Provisions relating to competing facilities, if any	
4.2	Specify the proposed Dispute Resolution Mechanism	
4.3	Specify the proposed governing law and jurisdiction	
4.4	Other remarks, if any	

Annex-IV Time required for various steps under the appraisal procedure for PPP projects

S.No.	Action	Time taken
1.	'In principle' approval by PPPAC	Three weeks from the time of submission of the proposal by the Administrative Department
2.	Comments of State Planning Commission, Department of Finance or any other Department on the final documents forwarded by the Administrative Department	Four weeks from the time of submission of the final documents by the Administrative Department
3.	Final approval by PPPAC	Three weeks from the submission of the PPPAC Memo along with final documents by the Administrative Department

