

Annexure-I

Scheme for Financial Support to Public Private Partnerships in Infrastructure

- A. Whereas the Government of India recognises that there is significant deficit in the availability of physical infrastructure across different sectors and that this is hindering economic development;
- B. Whereas the development of infrastructure requires large investments that cannot be undertaken out of public financing alone, and that in order to attract private capital as well as the techno-managerial efficiencies associated with it, the Government is committed to promoting Public Private Partnerships (PPPs) in infrastructure development; and
- C. Whereas the Government of India recognises that infrastructure projects may not always be financially viable because of long gestation periods and limited financial returns, and that financial viability of such projects can be improved through Government support;
- D. Now, therefore, the Government of India has decided to put into effect the following Scheme for providing financial support to bridge the viability gap of infrastructure projects undertaken through Public Private Partnerships.
- E. It is also imperative to promote Public Private Partnerships in the social sector to bring in private sector investments and efficiencies. Typically, social sector projects need high capital investments with low financial returns. Therefore, Government of India (GoI) has decided to enhance the VGF support for social sectors as defined in Rule 4.1(i).

1. Short Title and Extent

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

2. Definitions

In this Scheme, unless the context otherwise requires:

Empowered Committee means a Committee under the Chairmanship of Secretary (Economic Affairs), with CEO (NITI Aayog), Secretary (Expenditure), Secretary of the line ministry dealing with the subject as members and Joint Secretary, DEA as the Member Secretary as given in Annexure II.

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

Private Sector Company means a company which is not a Government Company” as defined under section 2(45) of the Companies Act, 2013.

Project Term or Concession Period means the duration of the contract or concession agreement for the PPP project.

Public Private Partnership (PPP) Project means a project based on a contract or concession agreement between a Government or statutory entity on the one side and a private sector company on the other side for delivering an infrastructure service on payment of user charges.

Operation and Maintenance Cost means the lower of the annual Operation and Maintenance cost of the PPP project: a) as quoted by the preferred bidder; and (b) as actually incurred during operations by the Concessionaire certified by the Statutory Auditor. Operation and Maintenance cost of the PPP project generally includes salary and consumables. However, EC may exclude/include any components of Operation and Maintenance cost as deemed fit depending on the project structuring.

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

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

3. Eligibility

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

- i. The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a Private Sector Company to be selected by the Government or a statutory entity through a process of open competitive bidding; provided that in case of railway projects that are not amenable to operation by a Private Sector Company, the Empowered Committee may relax this eligibility criterion.
- ii. The PPP Project should be from one of the sectors as given in Annexure III.

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

- iii. Projects availing of VGF under this scheme shall provide a service against payment of a pre-determined tariff or user charge.
- iv. The concerned Government/statutory entity should certify, with reasons:
 - a. That the tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP;
 - b. That the project term cannot be increased for reducing the viability gap; and
 - c. That the capital costs are reasonable and based on the standards and specifications normally applicable to such projects and that the capital costs cannot be further restricted for reducing the viability gap.

4. Government Support

1. The total Viability Gap Funding under this Scheme shall be as follows:
 - i **For Social Sector Projects:**
 - a. **Sub-scheme 1:** This includes Water Supply, Solid Waste Management, Waste Water Treatment, Health and Education etc. The amount of VGF under this scheme shall be equivalent to the lowest bid for capital grant, subject to maximum of 30% (Thirty percent) of the Total Project Cost. In case the sponsoring Central Ministry/State Government/Statutory Entity

proposes to provide any assistance over and above the said VGF out of its budget, it shall be restricted to a further 30 percent of the total project cost. The projects eligible under this category should have at least 100% Operational Cost recovery.

- b. **Sub-scheme 2:** This includes only demonstration/pilot projects in Health and Education sectors. The amount of VGF under this scheme shall be equivalent to the lowest bid which will be considered as summation of capital grant and NPV of O&M cost for first five years after COD, but subject to a maximum of 40% of the Total Project Cost as capital grant and 25% of NPV of O&M Cost for the first 5 years after COD as operational grant. In case the Sponsoring Central Ministry/State Government/Statutory Entity proposes to provide any assistance over and above the said VGF out of its budget, it shall be restricted to a further up to 40% of the Total Project Cost as capital grant and up to 25% of NPV of O&M Cost for the first 5 years after COD as operational grant. The projects eligible under this category should have at least 50% Operational Cost recovery.

- ii **For all other eligible sector projects:** The amount of VGF shall be equivalent to the lowest bid for capital grant, subject to maximum of 20% of the Total Project Cost. In case the sponsoring Central Ministry/State Government/Statutory Entity proposes to provide any assistance over and above the said VGF out of its budget, it shall be restricted to a further 20% of the total project cost.

- 2. Viability Gap Funding under this Scheme except Sub-scheme 2 will normally be in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance may be considered by the Empowered Committee and sanctioned with the approval of the Finance Minister on a case-by-case basis.

3. Viability Gap Funding up to Rs. 200 crores (Rupees two hundred crore) for each project may be sanctioned by the Empowered Committee, subject to the budgetary ceilings indicated by the Finance Ministry. Proposals of VGF exceeding Rs. 200 crores (Rupees two hundred crore) may be sanctioned by the Empowered Committee with the approval of the Finance Minister.
4. Unless otherwise directed by the Ministry of Finance, the Empowered Committee may approve project proposals with a cumulative capital outlay equivalent to ten times the budget provisions.
5. If need arises, the funding may be provided based on an appropriate formula, to be determined by the Empowered Committee, that balances need across sectors and locations in a manner that would make broad base the sectoral and locational coverage and avoid pre-empting of funds by a few large projects.

5. Approval of Project Proposals

1. Project proposals may be proposed by a Government or statutory entity which owns the underlying assets. The proposals shall include the requisite information necessary for satisfying the eligibility criteria specified in paragraph 3 above.
2. Projects based on standardised/model documents duly approved by the respective Government would be preferred. Standalone documents may be subjected to detailed scrutiny by the Empowered Committee.
3. The Empowered Committee will consider the project proposals for Viability Gap Funding and may seek the required details for satisfying the eligibility criteria.
4. Within 30 days of receipt of a project proposal, duly completed as aforesaid, the Empowered Committee shall inform the sponsoring Government/statutory entity whether the project is eligible for financial assistance under this Scheme. In case the project is based on standalone documents (not being duly approved model/standard documents), the approval process may require an additional 60 (sixty) days.
5. Notwithstanding the approvals granted under this Scheme, projects promoted by the Central Government or its statutory entities shall be approved and implemented in accordance with the procedures specified from time to time.

6. In cases where Viability Gap Funding is budgeted under any on-going Scheme of the Central Government, the inter-se allocation between such on-going Scheme and this Scheme shall be determined by the Empowered Committee.

6. Procurement Process for PPP Projects

1. The Private Sector Company shall be selected through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of Viability Gap Funding required by a Private Sector Company for implementing the project where all other parameters are comparable.
2. The Government or statutory entity proposing the project shall certify that the bidding process conforms to the provisions of this Scheme and convey the same to the Empowered Committee prior to disbursement of the Grant.
3. In case, the Government or statutory entity proceeds with bidding process with substantial alterations to the bidding documents and provisions approved by the Empowered Committee without taking prior approval of the Empowered Committee, the Empowered Committee may decline the final approval to the project.

7. Appraisal and Monitoring by Lead Financial Institution ¹

1. Within four months from the date on which eligibility of the project is conveyed by the Empowered Committee to the concerned Government/statutory entity, the PPP project shall be awarded in accordance with paragraph 6 above; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Committee may extend this period by not more than two months at a time.
2. The Lead Financial Institution shall, within three months from the date of bid award, present its appraisal of the project for the consideration and approval of the Empowered Committee; provided that upon application made to it by the concerned

¹ In case of Sub Scheme 1 and 2 where projects are entirely funded by Equity, the role and responsibilities of LFI shall be undertaken by the Project Authority.

Government/statutory entity, the Empowered Committee may extend this period by not more than one month at a time.

3. The Lead Financial Institution shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purpose of disbursement of Viability Gap Funding. It shall send quarterly progress reports to the Empowered Committee.

8. Disbursement of Grant

1. A Capital Grant under this Scheme shall be disbursed only after the Private Sector Company has subscribed and expended all the equity contribution required for the project and will be released in proportion to debt disbursements by Lead Financial Institution. However, in case of sub-scheme 2, Operational grant shall be disbursed annually for the first five years post achieving COD based on audited annual accounts and shall be subject to the lower of the annual O&M cost quoted by the concessionaire at the time of the bid and actual O&M cost incurred.

In case, a project under Sub-scheme 1 & 2 is funded completely by equity, Capital Grant VGF shall be disbursed after the equity contribution is expended by the concessionaire and in accordance with the project milestones achieved (lower of physical or financial progress).

2. The Empowered Committee will release the Grant to the escrow account only after the recommendations of the Sponsoring Authority.
3. The Empowered Committee, the Lead Financial Institution and the Private Sector Company shall enter into a Tripartite Agreement (as prescribed by the Empowered Committee from time to time) for the purposes of this Scheme as given at Annexure-V².

9. Recovery of VGF in case of terminated projects

If the project is terminated at any point of time during the concession period, the VGF may not be recovered from the Authority if it is re-bid and continued as PPP. However, if

² In case of Sub Scheme 1 and 2, if the project is entirely funded through equity, then the Tripartite Agreement shall be entered into by the Empowered Committee, the Project Sponsoring Authority (Owner of the asset) and the Private Sector Company.

the project is terminated at any point of time during the concession period and not continued as PPP project, then 90% of Capital Grant disbursed under this scheme may be payable by the Authority to the Ministry of Finance.

10. Guidelines

The Department of Economic Affairs, Ministry of Finance will issue appropriate guidelines for implementation of the Scheme from time to time.