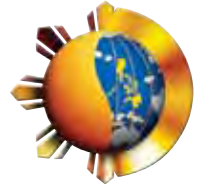


Developing Public-Private Partnerships in Local Infrastructure and Development Projects



A PPP MANUAL FOR LGUs | 1

Understanding PPP Concepts & Framework



VOLUME ONE



A PPP Manual for LGUs:
Understanding PPP Concepts
and Framework

1

Acknowledgement



Asian
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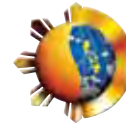
Local Governance
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Partnership
Center

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Public-Private Partnership Center

The Public-Private Partnership Center (PPP Center) by virtue of Executive Order No. 8 is mandated to be the overall facilitator of the PPP program and projects. As a cornerstone strategy, the Center has been tasked to ensure the fast-tracking of key infrastructure and development projects to sustain the economic growth of the country. Equipped with the technical know-how and extensive experience in project development, the PPP Center provides services and assistance to national Implementing Agencies (IAs), Government-Owned and Controlled Corporations (GOCCs), State Universities and Colleges (SUCs), and Local Government Units (LGUs) in the development and implementation of critical infrastructure and other development projects.

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Developing Public Private Partnerships in Local Infrastructure and Development Projects

A PPP Manual for LGUs

Volume 1: Understanding PPP Concepts and Framework

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Preface

The Manual is composed of three volumes.

Volume 1 - UNDERSTANDING PPP CONCEPTS AND FRAMEWORK - intends to familiarize the reader with the basic concepts and framework relevant to public-private partnerships in the Philippines.

Volume 2 - DEVELOPING PPP PROJECTS FOR LOCAL GOVERNMENT UNITS - intends to help LGUs understand the processes involved in a PPP venture. More specifically, it aims to make LGUs better understand the legal requisites and the procedural requirements, and the due-diligence analysis as they venture into PPPs for their development projects and elaborates on the steps and processes that LGUs can use to structure PPPs.

Volume 3 - UTILIZING LGU PPP PROJECT TEMPLATES AND BID DOCUMENTS - intends to clarify the concepts and tools presented in the first two volumes by providing examples of projects that have been successfully implemented by the LGUs for PPP.

This volume is the first in this three-part Manual series.

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List of Acronyms

AIP	Annual Investment Plan	PDPFP	Provincial Development and Physical Framework Plan
BLT	Build-Lease-and-Transfer	PPP	Public-Private Partnership
BOO	Build-Own- and-Operate	RA	Republic Act
BOT	Build-Operate- and-Transfer	RDIP	Regional Development and Investment Program
BT	Build-and-Transfer	RDC	Regional Development Council
BTO	Build-Transfer- and-Operate	RDP	Regional Development Plan
CAO	Contract-Add- and-Operate	ROO	Rehabilitate-Own- and-Operate
CDP	Comprehensive Development Plan	ROT	Rehabilitate-Operate-and-Transfer
C/MDP	City/ Municipal Development Plan	RPPF	Regional Physical Framework Plan
DILG	Department of Interior and Local Government	UNESCAP	United Nations Economic and Social Commission for the Asia and Pacific
DOT	Develop-Operate-and-Transfer		
EIU	Economist Intelligence Unit		
EO	Executive Order		
GOCCS	Government-Owned-and-Controlled Corporations		
ICC	Investment Coordination Committee		
ICT	Information and Communications Technology		
INFRACOM	Infrastructure Committee		
IRA	Internal Revenue Allotment		
IT	Information Technology		
LDC	Local Development Council		
LEIPO	Local Economic and Investment Promotions Officer		
LDIP	Local Development Investment Promotions Program		
LGC	Local Government Code		
LGU	Local Government Unit		
MC	Memorandum Circular		
MTPIP	Medium-Term Public Investment Program		
NEDA	National Economic and Development Authority		
NFPP	National Framework for Physical Planning		
PPAs	Programs, Projects, and Activities		
PDIP	Provincial Development Investment Program		
PDP	Philippine Development Plan		

Message from the President



MALACAÑAN PALACE

Manila



Local governments play a decisive role in realizing our nation's development agenda. Their success, specifically in the implementation of their various infrastructure projects, is a testament to the evolving maturity of their leadership and the committed level of their involvement to realize projects that spur progress for the country. Local governments are in a better position to determine the kind of infrastructure projects that would prove beneficial to their constituents and to the local economy. These decisions are reached through a consultative approach that is the hallmark of a working democracy.

Public-private partnerships done at the local level has an encouraging rate of success. Limited funding, when proficiently allocated to technical expertise and appropriate resources, results in a faster and more efficient delivery of projects.

This Manual on Public-Private Partnerships for LGUs provides a systematic framework to help our local governments achieve what they have envisioned for their constituencies. Indeed, this framework will help stakeholders to navigate PPP requirements and orient them on the procedures of project management, thus assuring both investors and the public that these partnerships will conform to the principles of transparency, accountability, and good governance that are the underlying foundations of our Social Contract with the Filipino People.

Let us continue working together to sustain this momentum of development and reap the fruits of this era of daylight and reform.

A handwritten signature in black ink, appearing to read 'Benigno S. Aquino III'.

BENIGNO S. AQUINO III

MANILA

March 2012

Message from the Secretary of Socio-Economic Planning and Director-General of NEDA



NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

NEDA sa Pasig Building
12 Escrivá Drive, Pasig City

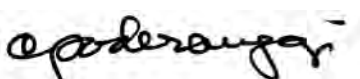
The Public-Private Partnership (PPP) program has been adopted by the country as an important strategy to accelerate growth in the infrastructure industry. This, coupled with a strong business climate and good governance, has increased investor confidence in the Philippines as international financial institutions and foreign investors express renewed interest to bring their businesses to our shores. This optimistic investor confidence, in turn, translates to increases in investments, production, consumption and growth. With the Philippine economy on the upturn, we can expect a 5.0 to 6.0 percent growth rate for this year.

It is time to act swiftly and boldly to take advantage of these gains. I encourage our local governments to ramp up its local infrastructure projects through the PPP scheme and take advantage of what this arrangement has to offer, thereby creating more jobs and improving the quality of life of the Filipino.

This manual on Public-Private Partnership for Local Government Units (LGUs) is envisioned as a tool that should guide its users among local governments in developing infrastructure projects using PPP processes. The Manual contains a concise methodology of developing projects under the PPP scheme, offering instruction in all aspects of project development and management.

Let this Manual direct you into creating well-prepared PPP projects that are founded upon the principles of suitability, precision and transparency.

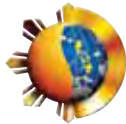
The infrastructure projects that emerge from this initiative will be your legacy to the Filipino people to whom you have vowed to serve with commitment and integrity.



CAYETANO W. PADERANGA JR.

Secretary of Socio-economic Planning
and NEDA Director General

Message from the PPP Center Executive Director



Public-Private Partnership Center
NEDA sa QC, EDSA, Diliman 1101, Quezon City

It is with great pride that the Public-Private Partnership Center (PPP Center) presents the Developing Public-Private Partnerships in Local Infrastructure and Development Projects: A PPP Manual for LGUs (LGU PPP Manual).

As part of our continuing role of capacitating government agencies in engaging in PPP projects, the LGU PPP Manual is seen to be a salient tool in increasing local government units' level of awareness and capacity in project identification, selection, preparation, and implementation.

The three volumes of the LGU PPP Manual intend to capacitate the readers with the basic concepts and framework relevant to public-private partnerships in the Philippines; help LGUs understand the processes involved in a PPP venture; and clarify PPP concepts and tools by providing examples of projects that have been successfully implemented by LGUs.

We, at the PPP Center, encourage all local governments – their local chief executives and project officers to maximize the use of this LGU PPP Manual. This serves as means to optimize their expertise on the PPP process in pursuit of delivering government's share in achieving inclusive growth.


COSETTE V. CANILAO
Executive Director

Introduction

This Volume is intended to familiarize the reader with the basic concepts and framework relevant to Public-Private Partnerships (PPP) in the Philippines.

Chapter 1 provides an overview about the relevance and traces the beginnings of PPP in the country. The Chapter discusses the following aspects of PPP - definition, policy and legal framework, and national and local agencies and committees that play relevant roles in PPP implementation.

Chapter 2 focuses on PPP as an approach to sustainable local development. The Chapter explains the context of PPP in the national and local development planning and investment programming process. Moreover, the relevance of PPP as a strategy in implementing local infrastructure or development projects is elaborated along with eligible LGU projects.

Chapter 3 provides information on how Local Government Units (LGUs) could assess the readiness of their organization for PPP venture. Specific tools which LGUs could use have been cited in this Chapter.

1 | Public-Private Partnership in the Philippines

AN OVERVIEW

“... these (PPP) projects promise so much for our economy and for the Filipino, and they (private partners) will play a vital role in our administration’s fulfillment of our Social Contract with our people.”

President Benigno S. Aquino III

President Benigno S. Aquino III’s “Social Contract with the Filipino People” acknowledges the role of the private sector as an important partner in attaining the Philippines’ national development objectives of inclusive growth and poverty reduction. Recognizing the indispensable role of the private sector as the main engine for national development, the Aquino administration identified the implementation of Public-Private Partnership (PPP) “as a cornerstone strategy of the national development plan to accelerate the infrastructure development of the country and sustain economic growth” [Executive Order (EO) No. 8, series of 2010]. The administration further pledges to provide the enabling environment for private sector investment through a stable macroeconomic environment and sound and consistent public policies.

The PPP Program has been the vehicle for private sector participation in the provision of infrastructure services. The private sector has always played a significant role in the country’s pursuit of bridging gaps in the economy. In 1986, private sector played a leading role in national development when the government undertook massive divestment, disposition and sale of all business-related assets. This was later formalized in 1990 when the then newly restored Congress enacted Republic Act (RA) 6957, “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for other purposes, better known as the “Build-Operate Transfer (BOT) Law.” After successful implementation of national projects, the BOT Law was amended in 1994 through the enactment of RA 7718 or An Act Amending Certain Sections of RA 6957. The Philippine BOT Law and its subsequent amendment provided national implementing agencies and local government units (LGUs) with a new avenue for financing and fast-tracking the implementation of infrastructure and development projects. The legal and regulatory framework for PPP expanded its coverage to include non-traditional infrastructure sectors such as health, education, information and communications technology, and other social infrastructure and development projects.

1.1 Definition

PPP can be broadly defined as a contractual agreement between the Government and a private firm targeted towards financing, designing, implementing and operating infrastructure facilities and services that were traditionally provided by the public sector. It embodies optimal risk allocation between the parties – minimizing cost while realizing project developmental objectives. Thus, the project is to be structured in such a way that the private sector gets a reasonable rate of return on its investment.

PPP offers monetary and non-monetary advantages for the public sector. It addresses the limited funding resources for local infrastructure or development projects of the public sector thereby allowing the allocation of public funds for other local priorities. It is a mechanism to distribute project risks to both public and private sector. PPP is geared for both sectors to gain improved efficiency and project implementation processes in delivering services to the public. Most importantly, PPP emphasizes Value for Money – focusing on reduced costs, better risk allocation, faster implementation, improved services and possible generation of additional revenue.

Box 1.1: Elements of PPP

- A contractual agreement between the public sector and the private sector
- Shared risks and resources
- Value for Money (VfM)
- Outcome orientation
- Acceleration of the infrastructure provision and faster implementation

1.2 Policy and Legal Framework

Section 20, Article II of the 1987 Philippine Constitution provides that “The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.” In recognition of this role in sustainable development, Congress enacted two primary laws to implement the same: the Government Procurement Reform Act (RA 9184) for the procurement of goods, supplies and services, and the RA 6957 as amended by RA 7718 or the Philippine BOT Law which provided a more focused framework in PPP infrastructure development. The enactment of RA 6957 allowed LGUs to enter into contractual arrangements with the private sector to implement infrastructure projects through two variants – Build-Operate-and-Transfer (BOT) and Build-Transfer-and-Operate (BTO). RA 7718 enhances the provision of RA 6957 by broadening the list of PPP government implementing agencies such as government owned and controlled corporations (GOCCs), government financing institutions (GFIs) and state universities and colleges (SUCs); putting in place incentives for attracting private sector investments to venture into PPP projects; and allowing negotiated unsolicited proposals provided that these comply with conditions outlined in the Law. More importantly, RA 7718 provided for the inclusion of other contractual arrangements or schemes to implement PPP projects.

Table 1-1: Comparison of RA 6957 and RA 7718

	RA 6957	RA 7718
Declaration of Policy	<ul style="list-style-type: none"> Recognizes the indispensable role of the private sector for national growth and development Provides incentives to mobilize private resources for the purpose of financing the construction, operation and maintenance of infrastructure and development projects normally financed and undertaken by the Government 	<ul style="list-style-type: none"> Recognizes the indispensable role of the private sector for national growth and development Clarifies the provision of incentives in mobilizing private resources with the inclusion of minimum government regulations, procedures and specific government undertakings for the private sector as the need arises
Private Initiative in Infrastructure	<ul style="list-style-type: none"> Emphasizes the solicitation of expertise from a duly prequalified private contractor through build-operate-and-transfer or build-and-transfer scheme 	<ul style="list-style-type: none"> Emphasizes the solicitation of expertise of individuals, groups or corporations in the private sector who have extensive experience in undertaking infrastructure or development project

	RA 6957	RA 7718
Priority Projects	<ul style="list-style-type: none"> Provides that local projects funded and implemented by the local government units concerned shall be submitted to the local development councils for confirmation or approval 	<ul style="list-style-type: none"> Enhances the provision of RA 6957 by citing all concerned government agencies, Government-Owned Controlled Corporations (GOCCs) and LGUs shall identify priority development programs for PPP Provides that local projects shall follow the approval process for different cost ceilings, to wit: (a) Three Hundred Million Pesos (PhP300,000,000) for approval of the Investment Coordination Committee (ICC) of National Economic and Development Authority (NEDA); and (b) more than PhP300,000,000 for the approval of the NEDA Board Clarifies the acceptance of 'unsolicited' proposals provided that such comply with the conditions set forth in the Law
Eligible Projects	<ul style="list-style-type: none"> Infrastructure 	<ul style="list-style-type: none"> Cites infrastructure or development projects, and emphasizes the inclusion of non-traditional infrastructure sectors such education, health, and agriculture
Implementation Schemes	<ul style="list-style-type: none"> BOT and BTO 	<ul style="list-style-type: none"> Includes other variants - BOT, BT, BOO, BLT, BTO, CAO, DOT, ROT, ROO, and other variants as may be approved by the President

As provided in the amended BOT Law and its Implementing Rules and Regulations (IRR), collaborative partnerships between the government and the private sector can be made possible through a broad spectrum of modalities. The BOT Law identifies a number of variants and includes a catch all provision for other variants that may be identified later. However project implemented using new variants are subject to the approval of the President of the Philippines. Table 1-2 elaborates on the different contractual arrangements identified and supported by existing Philippine laws, rules and regulations, and delineates the respective roles of government and the private proponent under each PPP modality.ⁱ

Note however that there are other laws and regulations that impact on the implementation of PPP projects. Worthy of note are laws related to economic and quality regulations for infrastructure services and public utilities and environmental laws and regulations. These should be complied with in conjunction with the BOT Law.

Table 1-2: RA 7718 PPP Variantsⁱⁱ

PPP Modality	Role of the Private Proponent	Role of the Government	Notes/Remarks
Build-Operate-and-Transfer (BOT)	Finances and constructs; operates and maintains facility for a fixed term; collects fees and charges to recover investments plus profit; transfers facility at the end of cooperation period (maximum of 50 years)	Provides franchise (if required) and regulates activities of BOT contractor; acquires ownership of facilities at the end of cooperation period	Includes a supply-and-operate scheme, a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the Government so requires, operates the facility.
Build-and-Transfer (BT)	Finances and constructs; turns over ownership of the facility to government after project completion	Acquires ownership of facility after construction; compensates proponent at agreed amortization schedule	May be employed in any project, including critical facilities which, for security or strategic reasons, must be operated by the Government.
Build-Own-and-Operate (BOO)	Finances, constructs and owns facility; operates and maintains facility in perpetuity (facility operator may be assigned); collects fees and charges to recover investments and profits	Provides authorization and assistance in securing approval of BOO contract; possesses the option to buy the output/service provided by the BOO operator	All BOO projects upon recommendation of the NEDA-ICC shall be approved by the President of the Philippines.
Build-Lease-and-Transfer (BLT)	Finances and constructs; turns over project after completion; transfers ownership of facility after cooperation/lease period	Compensates proponent by way of lease of facility at agreed term and schedule; owns facility after cooperation/lease period	Akin to Lease-to-Own

PPP Modality	Role of the Private Proponent	Role of the Government	Notes/Remarks
Build-Transfer-and-Operate (BTO)	Finances and constructs on a turn-key basis; transfers title of facility after commissioning; operates the facility under an agreement	Owens facility after commissioning	Minimizes construction risk delays
Contract-Add-and-Operate (CAO)	Adds to an existing facility; operates expanded project for an agreed franchise period	Collects rental payment under agreed terms and schedule; regains control at the end of lease term	There may or may not be a transfer arrangement with regard to the added facility provided by the Project Proponent.
Develop-Operate-and-Transfer (DOT)	Builds and operates a new infrastructure; transfers property/ facility at the end of the cooperation period	Regains possession of property turned over to investor after cooperation period	Project proponent enjoys some benefits the initial investment creates such as higher property or rent values; akin to BOT with the option to develop adjoining property
Rehabilitate-Operate-and-Transfer (ROT)	Refurbishes, operates, and maintains facility; facility is turned over after the franchise period	Provides franchise to ROT company; regains legal title of property/ facility after franchise period	Also used to describe the purchase of facility from abroad, importing, refurbishing, erecting and consuming it within the host country.
Rehabilitate-Own-and-Operate (ROO)	Refurbishes and owns facility; operates facility in perpetuity as long as there is no franchise violation	Turns over facility and provides franchise to operate; may opt to share in the income of ROO company	Period to operate is dependent on franchise agreement.

The implementation of PPP projects at the local level is facilitated by the Local Government Code (LGC) of 1991 (RA 7160). As much as the Code vests upon the LGU wide latitude of prerogative to enter into contracts involving its properties, this prerogative should however be used along and harmonized with other relevant legal pronouncements. DILG MC No. 2011-16, in particular, recognizes the need to facilitate the “localization of the mandated powers and functions of the PPP Center” and, thus, enjoins all Local Chief Executives to establish a PPP Sub-Committee in the Local Development Council that would, among others, “assist the Local Development Council (LDC) in the formulation of action plans and strategies related to the implementation of PPP programs and projects.”

Box 1-2: Policy and Legal Framework of PPP in the Philippines

- 1987 Constitution Section 20, Article II
- Build-Operate-Transfer Law
- RA 6957 as amended by RA 7718
- Other Related Laws and Executive Issuances
- Local Government Code
- Public Service Act (Commonwealth Act No. 146, as amended)
- Foreign Investments Act of 1991 (RA 042, as amended by RA 8179)ⁱⁱⁱ
- Foreign Borrowings Act of 1966 (RA 4860)
- Omnibus Investments Code of 1987 (EO 226, as amended)^{iv}
- Government Procurement Reform Act of 2003 (RA 9184)^v
- EO 423, “Prescribing the Rules and Procedures on the Review and Approval of all Government Contracts to Conform with RA 9184”
- Various laws related to quality and economic regulations
- Laws related to environment protection

1.3 National and Local Agencies and Committees for PPP

The recognition accorded to PPP as an accelerator of services requires the performance of various agencies and committees at both levels. Consequently, identified national and local agencies and committees for PPP are interlinked in the performance of their roles in ensuring the collaboration of the private sector with the Government.

National Level

At the national level, specific committees and agencies perform review and regulatory functions in the development and approval of local PPP projects subject to the provisions of the IRR of RA 7718. These are the Investment Coordination Committee (ICC), Infrastructure Committee (INFRACOM), Regional Development Councils (RDCs), the NEDA Secretariat, and the PPP Center.

Table 1-3: National Agencies and Committees for PPP

Bodies/Agencies	General Functions
ICC	Recommends to the President the approval of proposed major capital projects based on evaluation procedures covering fiscal and monetary considerations and outcomes
INFRACOM	Advises and recommends to the President government policies, programs and projects concerning infrastructure development consistent with national development objectives and priorities
RDC	Serves as clearing house for key regional development policy or program proposals which impact on two or more regions
NEDA Secretariat	Provides technical staff support and assistance on the various aspects of development planning and policy formulation, and coordination, evaluation and monitoring of plan implementation
PPP Center	Provides advisory services and technical assistance in PPP project preparation and development, conducts project facilitation and assistance, and monitors and facilitates the implementation of the priority PPP Programs and Projects

Local Level

For local government units, among the most important considerations in pursuing PPP ventures are as follows:

1. Identify projects/programs to be packaged or pipelined for PPP.
2. Conduct preparatory activities such as feasibility studies
3. Conduct procurement activities, such as preparation of pre-qualification and bidding documents, and implement projects

As provided for by RA 7160, RA 7718 and pertinent DILG issuances,^{vi} Table 1-4 summarizes the local executive offices and legislative committees that have specific responsibilities for local PPP projects.

Table 1-4: Relevant Local Offices and Committees for PPP

LGU Office/Committee	Lead Officer	Responsibilities
Office of the Local Chief Executive	Governor or Mayor	Oversee the preparation of the local development plans, prioritization of projects, including those for PPP implementation; and shepherding the process of project development to approval, procurement, implementation and monitoring and evaluation.
Provincial, City and Municipal Planning and Development Office	Planning and Development Coordinator	Formulate integrated economic, social, physical and other development plans and policies for consideration of the LDC Monitor and evaluate the implementation of the different development programs, projects, and activities in the LGU in accordance with the approved development plan
Provincial, City and Municipal Engineering Office	Engineer	Initiate, review and recommend changes in policies and objectives, plans and programs, techniques, procedures and practices in infrastructure development and public works of the local government unit concerned Provide engineering services to the local government unit concerned, including investigation and survey, engineering designs, feasibility studies and project management
Provincial, City and Municipal Local Economic and Investment Promotion Office	Local Economic and Investment Promotion Officer (LEIPO)	Prepare, coordinate and execute local economic and investment promotion policies, projects and activities at the provincial, city and municipal level Head the PPP Sub-Committee as per DILG MC No. 2010-113.
Provincial, City and Municipal PPP Sub-Committee	Local Economic and Investment Promotion Officer	Assist in the formulation of action plans and strategies related to the implementation of PPP programs and projects The PPP Sub-Committee is headed by the LEIPO in Provinces and Cities. In Municipalities, however, the Local Chief Executive designates a staff under the Office of the Mayor to head the Sub-Committee

LGU Office/Committee	Lead Officer	Responsibilities
Provincial, City and Municipal Prequalification, Bids and Awards Committee	The Chairperson should be at least a third ranking regular official of the LGU	Responsible for all aspects of the pre-bidding and bidding process of solicited proposals and comparative bidding process of unsolicited proposals
Provincial, City and Municipal Development Council	Planning and Development Coordinator	Appraise and prioritize socioeconomic development programs and projects Coordinate, monitor, and evaluate the implementation of development programs and projects Endorse to the Sanggunian a PPP project that has passed the review and appraisal process
Provincial, City and Municipal Sanggunian	Sanggunian Convenor	Issue a resolution approving PPP projects and contracts

2 | Public-Private Partnership and Sustainable Local Development

This Chapter highlights public-private partnership as a preferred strategy in anchoring sustainable local development. It discusses how PPP is integrated into local development planning, why it is a preferred modality for delivering socioeconomic outcomes, and what PPP projects can be presented for selected sectors.

2.1 Development Planning and Investment Programming Process

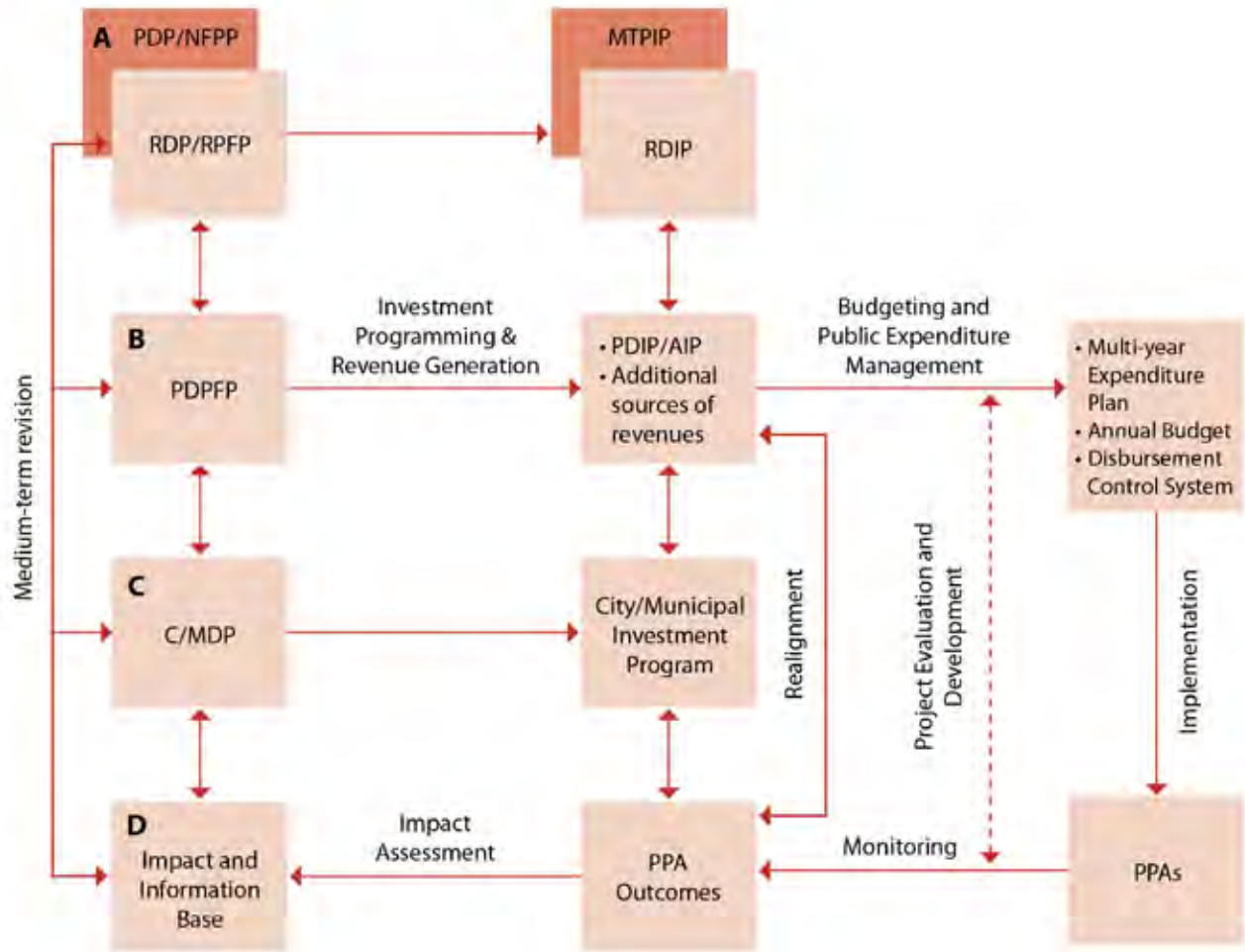
At the outset, it is important to note that RA 7160 or the Local Government Code of the Philippines vests local autonomy upon the LGUs to enable them to attain fullest development as self-reliant communities. The Code provides the scope of authority of LGUs as regards development planning and disposition of resources, revenue generation, basic services and facilities for which it is responsible, and a corporate governance system. These comprise the elements of the enabling environment for local PPP project implementation.

Development planning and investment programming follows a dynamic and iterative process whereby the national, regional and local levels of governance adhere to support and reaffirm each other's priority development thrusts and objectives. At the planning stage, the national government provides guidance and directions for the preparation of sectoral and lower level plans in terms of policies and macroeconomic targets taking into account prevailing development issues and concerns affecting national, regional and local conditions. From these national planning guidelines, regional and local level development plans and investment programs are then prepared with consideration of the local development needs and service delivery gaps. In turn, these documents serve as bases for the preparation of sectoral plans and investment programs which become components of the national medium-term development plan and investment program.

Development plans at all levels contain, among others, programs, projects and activities (PPAs) to respond to development needs and gaps. On the other hand, investment programs outline a set of prioritized PPAs, their specific timeframes of implementation and their budget requirements. Suitable fund sourcing alternatives and resource mobilization strategies are likewise proposed to ensure that these identified and prioritized PPAs are implemented.

In the foregoing context, PPP permeates through the whole plan formulation and investment programming process - as a development policy and strategy to achieve development objectives at all levels, and as a mechanism of prioritizing the implementation of priority PPAs. More specifically, PPP enables the achievement and management of sustainable local development, as reflected in Figure 1-1.

Figure 1-1: **Development Planning and Expenditure Management System**



A. At the National/Regional level

- Provides a venue and policy direction in engaging private sector participation in the whole development process
- Identifies priority sectors and areas of investment where private sector could come in
- Provides incentives for private sector investments in priority sectors
- Engages the private sector as lead or partner of the government in implementing development projects

B. At the Provincial level

- Provides a venue in engaging private sector participation in local development planning process
- Identifies areas of investments where private sector could come in
- Designates location of development activities where private sector could operate
- Provides local incentives for private sector investments
- Engages the private sector as lead or partner of the government in implementing local development projects

C. At the City/Municipal Level

- Provides a venue in engaging private sector participation in local development planning process
- Identifies areas of investments where private sector could come in
- Designates location of development activities where private sector could operate
- Provides local incentives for private sector investments
- Engages the private sector as lead or partner of the government in implementing local development projects
- Generates funds and mobilizes resources to implement local development projects

D. Monitoring and Evaluation of PPAs

- Validates performance of development projects from local to national levels in achieving their development directions and how local development projects contribute to the attainment of national development goals
- Ensures the achievements of intended development outcomes and impacts at various levels
- Provides venue for dialogues to improve performance of both government and private sector
- Provides critical inputs to plan formulation and investment programming

2.2 Project Implementation Modalities

LGUs are allowed to pursue a wide array of modalities to implement PPAs identified during the LGU Development Planning and Programming Process. In implementing projects, it is common that LGUs tap traditional funding modalities, namely: Internal Revenue Allotment (IRA), income generating sources – tax and non-tax revenues, grants and loans. The IRA is an apportioned share of the national wealth intended to be used to carry out the LGU’s mandated tasks and responsibilities as indicated in the LGC. On the other hand, LGUs’ income generating sources emanate from the LGC Sections 18, 22 and 23 which authorize them to collect taxes, charge fees for services and locally regulated industries, enter into contracts, secure loans from financial intermediaries, seek official development assistance (ODA), issue bonds and other borrowing instruments and, employ other means of securing resources needed for public service delivery. These modalities mainly address the financial requirements of the LGU to implement their projects.

Table 1-5: Traditional Funding Modalities and PPP

Traditional Funding Modalities	Public-Private Partnership
Provides limited role of the private sector in local infrastructure and development projects	Recognizes the essential role of the private sector as the main engine for national growth and development
Provides important services as designed by the public sector without considering the revenue stream	Enhances provision of services by utilizing the most appropriate technology and expertise which can be transferred to the public sector
Limited coverage to implement local infrastructure and development projects due to availability of funds	Can implement priority infrastructure projects without the burden of raising funds; Allows the public sector to utilize its funds for other purposes; Faster project implementation and ensured operating efficiency
High probability of absorbing risk by the government	Delegation of responsibility and risk between the public and private sector - lessened risk on the part of the government due to risk-shared allocation
Defined cost ceiling for projects depending on the traditional funding modality	Cost ceiling is more reliant on the project’s viable revenue stream
Financing option is defined and structured	Flexible financing, including use of private capital; Ready source of funds during lean periods

Compared to the traditional funding modalities, PPP as a strategy is more than just addressing the financial requirements of infrastructure and development projects. It is a synergistic approach which can improve public sector service delivery by bringing on board technology, processes and expertise from the private sector in project implementation. Note however that in PPP, the public sector should be able to clearly illustrate the ‘sustainability’ of a project to entice private sector participation. As such, local projects should demonstrate a solid revenue stream which allows the private sector to bear certain risks in project implementation. The participation of the private sector in public sector projects bring forth potential benefits in implementation as listed in Box 1-3.

Box 1-3: Potential Benefits of Venturing into Public-Private Partnership

- Access to private sector financial resources, technology, technical expertise and operating competence
- Mitigation of fiscal and resource limitations
- Prospective operational cost savings for local governments
- Reallocation of LGU resources for other priority needs
- Flexibility in management of LGU assets
- Cost-based/market-based fares, fees and charges for greater service sustainability
- Professionalization of personnel and organizational structures
- Profit motivation impetus to ensure efficiency and effectiveness in service delivery
- Protection of projects from possible adverse political interferences in service delivery
- Investment incentives

2.3 Eligible Local Government Unit Projects

The scope of eligible projects is a non-exhaustive list of projects identified under Basic Services and Facilities under Book 1, Chapter 2, Section 17 of the Local Government Code (see Table 1-6).

Table 1-6: Eligible LGU Projects for PPP

Infrastructure Sectors	Eligible Projects
Agriculture and Fisheries	Agricultural development facilities such as: agricultural produce storage and warehousing facilities; agricultural produce processing and post-harvest facilities; livestock facilities Fisheries and aquatic resources facilities such as: public fish ports; fish ponds; fisheries storage facilities; fisheries processing facilities
Commercial and Industrial Development	Local trading support infrastructure such as: markets; slaughterhouses Business district development facilities such as: business district establishment; business district expansion; business district revitalization/ rehabilitation
Education	Education and education support facilities such as: school buildings; education-related facilities such as dormitories, hostels, hometels and student centers

Infrastructure Sectors	Eligible Projects
Environmental and Solid Waste Management	Environment and solid waste management facilities such as: solid waste collection equipment; composting plans and facilities; sanitary landfills; tidal barriers
Government	Government buildings and operations centers
Forestry	Community-based forestry projects
Health	Healthcare and health-related infrastructure such as: hospitals; health centers; clinics; lying-in centers; pharmacies and drug stores; emergency medical stations; animal bite centers
Housing	Housing projects
Information and Communication Technology (ICT) Systems and Facilities	Information technology (IT) and database infrastructure that includes: IT modernization; geospatial resource mapping; cadastral survey for resource accounting and planning
Land Use	Land reclamation and dredging
Roads and Bridges	Provincial, city and municipal roads; bridges
Social Welfare	Social welfare services and facilities such as: day care centers; emergency response units; social welfare distribution centers
Transportation	Transportation facilities and infrastructure such as: transport management system; transport terminals
Water and Sanitation	Local water supply systems, septage management or sewerage systems; drainage facilities

3 | LGU Readiness for Public-Private Partnerships

The successful implementation of PPPs at the LGU level depends on the careful assessment of the factors to be considered in implementing PPP projects.

Pending the formulation of a PPP readiness assessment tool in the Philippines, LGUs may refer to the assessment tool developed by United Nations Economic and Social Commission for the Asia and Pacific (UNESCAP) which was originally created to evaluate a country's readiness to undertake PPP projects. Although the UNESCAP guide is originally developed for countries, it has features which could be adopted by local governments. The ideal espoused in the guide is for small informed groups comprised of stakeholders to sit together and answer a readiness assessment questionnaire. After answering the questionnaire, the groups shall then discuss the commonality and difference in their perceptions of the PPP environment. Ideally, the LGUs shall consider the results of the self-assessment in preparing PPP action plans.

The areas of focus in the UNESCAP guide that may be applicable to LGUs are: (i) business climate, (ii) financial environment, and (iii) legal and governance environment. Indicators that may be most relevant to LGUs are lifted from the guide and listed below (UNESCAP 2005).

Business climate

1. Possible to register and get permission to start up a new business quickly and easily
2. Physical infrastructure adequate (including water, electricity, ports, roads, telecom, and waste treatment)
3. Precedents show government to be responsive to business concerns (including history of cooperation and negotiation in the past)
4. Commitment to maintain policy continuity (including history of changing rules in relation to government partners)

Financial environment

5. Developed banking system services corporate needs

Legal and governance environment

6. Property rights effectively enforced, and compensation for expropriation is fair (including history of expropriation, which when necessary must be limited to cases that can be justified with reference to specific criteria and must employ fair compensation)
7. Local courts demonstrate competence, independence and efficiency
8. Procurement practices are fair and transparent
9. Effective political commitment to eradicate public sector corruption (in contrast with a reaction that borders on resignation and acceptance)
10. Political commitment to public and private financial transparency (including an adequate level of disclosure and independent auditing)
11. Government addressing problems of corrupt corporate practices (including purchasing kickbacks)
12. Community and stakeholder participation in government policy making (especially the practice of consulting with communities and integrating community inputs)
13. The press/media is free, formally and in practice
14. Environmental protection adequate

These indicators are meant to be contained in questions and to be answered using a performance rating scale, such as a scale of 0-4 with 4 being the highest score. For instance, for the indicator “Possible to register and get permission to start up a new business quickly and easily,” the following scaling guide may be applied for the time spent in setting out to apply for permits up to the receipt of all required permits:

- 4 – Average time is less than 1 month
- 3 – Average time is 1 month to 2 months
- 2 – Average time is more than 2 months up to 4 months
- 1 – Average time is more than 4 months up to 8 months
- 0 – Average time is more than 8 months

Note however that utter readiness is not a requirement in undertaking PPP transactions. They do not present absolute thresholds but are used for ranking to indicate the level of risks, marketability and possibility of success of PPP projects.

LGUs are however advised to heed two best practices in promoting PPPs, namely:

1. **Ring-fencing of the service offered for PPP implementation into a distinct economic enterprise.** It is not uncommon among LGUs to operate their public services, including those with user fees as part of their regular administration, budgeting and resource utilization process. The water service, for example, has no separate account. Its funds co-mingle with general funds. It co-shares the services of the engineer, accountant and treasurer. There is no transparent accounting of the cost of providing the service and no performance indicators are set. Hence it is difficult to assess the financial and technical performance of the service. Ring-fencing is recommended as a means to separate the accounts of the service and to make the service provider accountable for achieving performance targets and overall viability of the service. It is the first critical step in ensuring good governance, particularly by mimicking a corporatized structure. It includes the separation of financing accounts, consolidation of financial accounts across different products and services within the organization and its branches/subsidiaries, effecting physical and procedural internal divisions (Chinese walls) to contain certain information and activities, assigning protocols for disclosure and exchange of information between internal units of the LGU, and consistent application of rules for cost/revenue attribution and an appropriate allocation of common or joint costs, including overhead costs. LGUs are allowed to set-up Special Accounts for their economic enterprises, separate from the general fund.
2. **Clarifying regulatory framework, particularly principles and guidelines for tariff setting, and performance standards.** For most of its basic services, LGUs are not subject to regulatory oversight by an independent body. Rather, LGUs exercise economic regulatory function through their respective Local Sanggunians, which adopt their own guidelines or adopt decision rules on an ad-hoc basis, ungrounded by sound economic principles. Given the lack of guidelines, the recourse of the Local Chief Executive is regulation by contract. Specifically, the contract that will be approved by the Local Sanggunian should include in explicit and unequivocal terms the process, parameters, methodology and formula for tariff setting and adjustment; and performance standards expressed in key performance indicators. The parameters for the rate adjustment should be indexed to independently and objectively derived factors, for example, consumer price index, interest rates, etc.

NEXT STEPS

Local chief executives and officials who decide to adopt the PPP project financing and implementation strategy can refer to Volume 2 of this Manual to guide them on the PPP project identification process, due-diligence requirements and steps for project preparation, including risk analysis and evaluation of appropriate LGU support options, procurement, negotiation, and monitoring and evaluation during construction and operations. Volume 3 complements Volume 2 by presenting three examples of LGU projects that are good candidates for PPP implementation, namely: public market and commercial centers, government administrative center and water supply system. Volume 3 shows typical project scope and structure, economic and financial rates of return and sample PPP contracts.

Volumes 2 and 3 are designed and written bearing in mind the information, conceptual understanding and analytical tools required for the LGU technical team to develop and implement PPP projects.

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ENDNOTES

- i Unless indicated otherwise, most of the discussions in this chapter were derived from PPP Center (2001). PSP Project Development and Implementation Manual for LGUs (unpublished), referred to in this Volume as PSP Manual
- ii RA 7718 Sec 1.3 f) Contractual Arrangements Refers to any of the following contractual arrangements or schemes, as well as other variations thereof, as may be approved by the President, by which infrastructure and/or development projects may be undertaken pursuant to the provisions of these Revised IRR
- iii The statute defines the registration procedures for foreign enterprises wanting to invest in the Philippines, the list of investment areas reserved for Philippine nationals, and the investment rights of former-natural-born Filipinos
- iv Implemented by the Philippine Board of Investments (the “BOI”), the Code provides a comprehensive set of incentives for local and foreign enterprises engaged in activities considered by the Philippine government as high priority for national development
- v The law sets general principles and procedures for the “Procurement of Infrastructure Projects, Goods and Consulting Services, regardless of source of funds, whether local or foreign, by all branches and instrumentalities of government,” including local government units
- vi DILG MC 2010-113 calling for the designation of a Local Economic and Investment Promotion Officer (LEIPO) for Local Government Units (LGUs) – provinces, municipalities, and cities, and DILG Memorandum Circular 2011-16 calling for the establishment of Private-Public Partnership (PPP) Sub-Committees in the Local Development Councils (LDCs) of LGUs.

GLOSSARY OF TERMS

Build-and-Transfer (BT) - a contractual arrangement whereby the project proponent undertakes the financing and construction of a given infrastructure or development facility and after its completion turns it over to the implementing agency (IA) or local government unit (LGU) concerned, which shall pay the proponent on an agreed schedule its total investments expended on the project, plus a reasonable rate of return thereon

Build-Lease-and-Transfer (BLT) - a contractual arrangement whereby the project proponent is authorized to finance and construct an infrastructure or development facility and upon its completion turns it over to the implementing agency (IA) or local government unit (LGU) concerned on a lease arrangement for a fixed period after which ownership of the facility is automatically transferred to the IA or LGU concerned

Build-Operate-and-Transfer (BOT) - a contractual arrangement whereby the project proponent undertakes the construction, including financing, of a given infrastructure facility (previously undertaken by the government) and its operation and maintenance. The project proponent operates the facility over a fixed term during which it is allowed to charge users appropriate tolls, fees rentals and other charges not exceeding those proposed in its bids or as negotiated and incorporated in the contract to enable it to recover its investment, and operating and maintenance expenses. At the end of the fixed term, the proponent transfers the facility to the government agency concerned.

Build-Own-and-Operate (BOO) - a contractual arrangement whereby the project proponent is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the proponent is allowed to recover its total investment, operating and maintenance costs plus a reasonable return thereon by collecting tolls, rentals or other charges from facility users

Build-Transfer-and-Operate (BTO) - a contractual arrangement whereby public sector contracts out the building of an infrastructure facility to a private entity such that the contractor builds the facility on a turn-key basis, assuming cost overrun, delay and specified performance risks

Comprehensive Development Plan (CDP) - a multi-sectoral plan of city/municipal level programs, plans and activities that encompasses social, economic, environmental, infrastructural and institutional sectors of the locality

Contract-Add-and-Operate (CAO) scheme - a contractual arrangement whereby project proponent adds to an existing infrastructure facility which it is renting from the government; and project proponent operates the expanded project over an agreed franchise period

Develop-Operate-and-Transfer (DOT) - a contractual arrangement whereby favorable conditions external to a new infrastructure project which is to be built by a project proponent are integrated into the arrangement by giving that entity the right to develop adjoining property, and thus enjoy some of the benefits the investment creates such as higher property or rent values

Executive Order No. 8 – reorganizing and renaming the Build-Operate and Transfer (BOT) Center to the Public-Private Partnership (PPP) Center of the Philippines and transferring its attachment from the Department of Trade and Industry to the National Economic and Development Authority for other purposes

Infrastructure Committee (INFRACOM) - an inter-agency committee of the NEDA Board tasked to: a) advise the President and the NEDA Board on matters concerning infrastructure development; b) coordinate the activities of the agencies; and c) recommend to the President Government policies, programs and projects

Internal Revenue Allotment (IRA) - a built-in mechanism of inter-governmental transfer, which allocates a share of the national wealth to respective LGUs that would be used to carry out mandated tasks and responsibilities indicated in legislation, particularly the Local Government Code of 1991

Investment Coordination Committee (ICC) - an inter-agency committee of the NEDA Board tasked to: a) review the fiscal, monetary and Balance-of-Payments implications of major capital projects (MCPs) and recommend to the President the timetable of the implementation of these projects and programs on a regular basis; b) submit to the President a status of the fiscal (budgetary), monetary (credit and BOP) implications of MCPs; and c) review/evaluate specific MCPs with respect to technical, financial, economic, social, and institutional development feasibility, and viability as well as from the context of sectoral plans and geographical strategies, and submit to the NEDA Board (NB) for confirmation of ICC action

Local Development Council - a council in the LGU who is tasked to a) review the acceptability of proposed LGU PPP projects and provide comments for the enhancement of the project proposal; b) approve the project proposal and endorse it to the Sanggunian; c) review existing policies affecting implementation of PPP projects and propose amendments to the Sanggunian if needed; and d) propose new policies to the Sanggunian which support PPP implementation

Local Development Investment Program (LDIP) - A compilation of annual investment plans, which outlines the priority LGU initiatives, indicative schedule of implementation and the expenditure projected for each initiative

Local Economic and Investment Promotion Officer (LEIPO) - the lead person or officer in the local PPP who is tasked to a) prepare, coordinate and execute local economic and investment promotion policies, projects and activities at the provincial, municipal and city level; b) ensure the functionality of the PPP Sub-Committee; c) conduct activities supportive of collaboration with the private sector for LGU PPAs; and d) work with the Local Planning and Development Coordinator and Local Engineer in coordinating with concerned national agencies for LGU PPP projects

Local Engineer - The lead person or officer in the local PPP who is tasked to a) provide technical inputs in the technical working group of the LGU developing the pre-feasibility study or feasibility study; and b) ensure that technical designs and specifications required of the project adhere to standards.

Local Planning and Development Coordinator - the lead person or officer in the local PPP who is tasked to a) identify possible projects of local departments for PPP during the LGU's investment programming cycle; b) ensure inclusion of the LGU PPP projects in the Investment Program and Annual Investment Plan; c) secure approval of proposed LGU PPP projects from necessary approving bodies; d) coordinate with concerned local departments and national line agencies to firm up the development of local projects for PPP; e) ensure that all technical requirements needed in the PPP project development are met; f) monitor and report the progress of PPP project implementation; and g) evaluate the PPP project after its implementation and provide a report to the concerned local bodies (i.e., Sanggunian) and national government agencies (i.e. PPP Center)

Pre-qualification, Bids and Awards Committee (PBAC) - as per the RA 6957, as amended by RA 7718 – IRR, a committee which is responsible for all aspects of the pre-bidding and bidding process in the case of solicited proposals, and for the comparative bidding process in the case of unsolicited proposals

Provincial Development Investment Program (PDIP) - a listing of programs, plans and activities that have been prioritized and the indicative years wherein each intervention would be carried out, and the annual expenditure projected for each initiative, spread on a span of 6 years

Provincial Development and Physical Framework Plan (PDPFP) - a comprehensive plan of provincial level programs, plans and activities (PPAs) formulated based on situational analyses, socioeconomic profiling, sectoral assessments and identification of prevailing issues and concerns

Public-Private Partnership - a contractual agreement between a government and a private firm, towards financing, designing, implementing and operating infrastructure facilities and services traditionally provided by the public sector

Rehabilitate-Operate-and-Transfer (ROT) - a contractual arrangement whereby an existing facility is turned over to the private sector to refurbish, operate and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the government

Rehabilitate-Own-and-Operate (ROO) - a contractual arrangement whereby an existing facility is turned over to the private sector to refurbish and operate with no time limitation imposed on ownership

Regional Development (RD) Committee - an inter-agency committee of the NEDA Board tasked to: a) formulate and monitor the implementation of policies; b) serve as clearing house for key regional development policy/ program proposals; c) formulate and monitor implementation of the framework for regional development of the PDP; d) periodically review the viability of the regional configuration of the country and recommend to the President the re-delineation of regions; and e) periodically review the composition, structure and operating mechanism of RDCs and recommend to the President changes as may be necessary

Republic Act 6957 – an act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector and for other purposes

Republic Act of 7718 – an act amending certain sections of Republic Act 6957, entitled “an act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector, and for other purposes.

Risk – This refers to the “quantifiable likelihood of loss or less than expected returns” in investment.

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A PPP MANUAL FOR LGUs

Volume 1
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