Developing PPP Projects for Local Government Units
A PPP Manual for LGUs:
Developing PPP Projects for Local Government Units
Acknowledgement

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A PPP Manual for LGUs
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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 templates based on projects that have been successfully implemented by the LGUs for PPP.

This volume is the second in this three-part Manual series.
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<th>Description</th>
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<tr>
<td>ADSCR</td>
<td>Annual Debt Service Coverage Ratio</td>
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<td>ATP</td>
<td>Ability to Pay</td>
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<td>BCR</td>
<td>Benefit-Cost Ratio</td>
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<td>BOT</td>
<td>Build-Operate-and-Transfer</td>
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<td>BSP</td>
<td>Bangko Sentral ng Pilipinas</td>
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<td>CD</td>
<td>Calendar Days</td>
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<td>CDC</td>
<td>City Development Councils</td>
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<td>CEND</td>
<td>Confiscation, Expropriation and Deprivation Risks</td>
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<td>CI</td>
<td>Contract of Implementation</td>
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<td>CIDA</td>
<td>Canadian International Development Agency</td>
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<td>D/E</td>
<td>Debt-Equity</td>
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<td>DAO</td>
<td>Department Administrative Order</td>
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<td>Department of Environment and Natural Resources</td>
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<td>Department of Interior and Local Government</td>
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<td>DSCR</td>
<td>Debt Service Coverage Ratio</td>
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<td>DZA</td>
<td>Deputized Zoning Administrator</td>
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<td>ECA</td>
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<td>ECC</td>
<td>Environmental Compliance Certificate</td>
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<td>Environmentally Critical Projects</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>EIRR</td>
<td>Economic Internal Rate of Return</td>
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<td>EIS</td>
<td>Environmental Impact Study</td>
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<td>EMB</td>
<td>Environmental Management Bureau</td>
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<td>EMP</td>
<td>Environmental Management Plan</td>
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<td>FIRR</td>
<td>Financial Internal Rate of Return</td>
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<td>FS</td>
<td>Feasibility Study</td>
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<td>GAD</td>
<td>Gender and Development</td>
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<td>GOP</td>
<td>Government of the Philippines</td>
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<td>HLURB</td>
<td>Housing and Land Use Regulatory Board</td>
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<td>ICC</td>
<td>Investment Coordination Committee</td>
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<td>IEE</td>
<td>Initial Environmental Examination</td>
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<td>IP</td>
<td>Indigenous People</td>
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<td>IPP</td>
<td>Indigenous People’s Plan</td>
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<td>IRR</td>
<td>Internal Rate of Return</td>
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<td>IRRE</td>
<td>Internal Rate of Return on Equity</td>
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<td>JV</td>
<td>Joint Venture</td>
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<td>LCE</td>
<td>Local Chief Executive</td>
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<td>LDC</td>
<td>Local Development Council</td>
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<td>LDIP</td>
<td>Local Development Investment Program</td>
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<td>LFPR</td>
<td>Labor Force Participation Rate</td>
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<td>LGU</td>
<td>Local Government Unit</td>
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<td>LGUGC</td>
<td>LGU Guarantee Corporation</td>
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<td>LOU</td>
<td>Letter of Understanding</td>
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<td>MC</td>
<td>Management Contract</td>
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<td>MDC</td>
<td>Municipal Development Council</td>
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<td>MIGA</td>
<td>Multilateral Investment Guarantee Agency</td>
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<td>MVA</td>
<td>Multivariate analysis</td>
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<td>NCI</td>
<td>Notice to Commence Implementation</td>
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<td>NOA</td>
<td>Notice of Acceptance</td>
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<td>NOCF</td>
<td>Net Operating Cash Flow</td>
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<td>NPV</td>
<td>Net Present Value</td>
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<tr>
<td>O&amp;M</td>
<td>Operations and Maintenance</td>
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<td>ODA</td>
<td>Official Development Assistance</td>
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<td>OP</td>
<td>Office of the President</td>
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<td>OPIC</td>
<td>Overseas Private Investment Corporation</td>
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<td>PBAC</td>
<td>Pre-qualification Bids and Award Committee</td>
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<td>PCAB</td>
<td>Philippine Contractors Accreditation Board</td>
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<td>PD</td>
<td>Project Description</td>
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<td>PDC</td>
<td>Provincial Development Councils</td>
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<td>PDIP</td>
<td>Provincial Development Investment Program</td>
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<td>PEM</td>
<td>Project Evaluation Model</td>
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<td>PPAs</td>
<td>Programs, Projects, and Activities</td>
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<td>PPP</td>
<td>Public-Private Partnership</td>
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<td>PQ</td>
<td>Pre-Qualification</td>
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<td>PSP</td>
<td>Private Sector Participation</td>
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<td>RA</td>
<td>Republic Act</td>
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<td>RAP</td>
<td>Resettlement Action Plan</td>
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<td>RCDG</td>
<td>Reinforced Concrete Deck Girder</td>
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<td>RDC</td>
<td>Regional Development Council</td>
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<td>RDIP</td>
<td>Regional Development Investment Program</td>
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<td>RED</td>
<td>Regional Executive Director</td>
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<td>RF</td>
<td>Results Framework</td>
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<td>Acronym</td>
<td>Full Form</td>
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<td>RFP</td>
<td>Request for Proposal</td>
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<td>ROR</td>
<td>Rate of Return</td>
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<td>ROW</td>
<td>Right of Way</td>
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<td>RTP</td>
<td>Relocation and Transfer Plans</td>
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<tr>
<td>SCBA</td>
<td>Social Cost Benefit Analysis</td>
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<tr>
<td>SEC</td>
<td>Securities and Exchange Commission</td>
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<tr>
<td>SIA</td>
<td>Social Impact Analysis</td>
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<tr>
<td>SWR</td>
<td>Shadow Wage Rate</td>
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<tr>
<td>TCT</td>
<td>Transfer certificate of Title</td>
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<td>TMP</td>
<td>Traffic Management Plan</td>
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<tr>
<td>TOR</td>
<td>Terms of Reference</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development</td>
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<tr>
<td>Programme</td>
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<tr>
<td>Vfm</td>
<td>Value for Money</td>
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<tr>
<td>WACC</td>
<td>Weighted Average Cost of Capital</td>
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<tr>
<td>WTP</td>
<td>Willingness to Pay</td>
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Local governments play a necessary 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 the 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.

MANILA
March 2012
Message from the Secretary of Socio-Economic Planning and Director-General of NEDA

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 in 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 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 Partnerships 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 sustainability, 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.
Message from the PPP Center Executive Director

PUBLIC-PRIVATE PARTNERSHIP CENTER
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
Introduction

This Volume is intended to provide technical guidance to the Local Government Unit in undertaking Public-Private Partnership (PPP). The different Phases of PPP are clarified along with their respective steps and processes.

Chapter 1 provides an overview about the Public-Private Partnership process in the country, which are Development, Approval, Competition, and Cooperation. This Chapter provides clarification between the steps and requirements of each phase in a PPP venture.

Chapter 2 elaborates the components of the Development Phase, particularly what should be remembered in project identification, preparation or the due-diligence analysis. The Chapter also discusses important considerations in preparing contracts. Understanding this Chapter will help the LGU prepare for necessary requirements needed in the succeeding phase of the PPP process.

Chapter 3 provides information on the Approval Phase. It explains the roles of the National and Local Approving Agencies and Committees on PPP and their respective requirements. More importantly, the Chapter also discusses the different aspects LGU PPP Projects should address when submitted for review and appraisal.

Chapter 4 explains the Competition Phase. Contents of the Chapter dwell on the provisions of the Implementing Rules and Regulations of Republic Act 7718 (Amended BOT Law) for Solicited and Unsolicited projects. Process flow charts and timelines, as provided by the Act and National Policy, are provided in this Chapter to guide the LGU.

Chapter 5 highlights important points for the Cooperation Phase, particularly the arrangements in establishing and implementing a PPP project in compliance with a contract. The Chapter also explains what an LGU needs to undertake and the PPP Center’s role in monitoring & evaluation of PPP projects.
Volume 2 : Developing PPP Projects for LGUs
1 | Understanding the Public Private-Partnership Process

This chapter explains the Public-Private Partnership (PPP) processes that the local government units (LGUs) have to undertake should they decide to go on a PPP venture. Highlighted are the mandatory activities and their corresponding required timelines that LGUs should observe.

1.1 The PPP Process

The PPP process involves four phases, namely: development, approval, competition, and cooperation, as shown in Figure 2-1. Cutting across these phases are monitoring and evaluation.

Figure 2-1: LGU PPP Framework
1.1.1 Development Phase

The project development phase is part of the medium and long term development planning undertaken by the LGUs as discussed in section 2.1 and as illustrated in Figure 1-1 in volume 1 of this manual. This phase commences as soon as development targets and programs have been identified by the LGU based on the goals and strategies of its development plan approved by the local development council. During this phase, an LGU is expected to identify priority projects that will be programmed for implementation during the three-year administration of the local chief executive and subsequently select the projects appropriate for PPP implementation. Section 2.1 of this volume recommends the use of multivariate analysis for prioritizing projects and selecting those that are most appropriate for PPP implementation.

The LGU then undertakes an in-depth due-diligence analysis of these projects for the following reasons:

1. The LGU must be assured that the proposed project is technically, economically and financially viable and has no major risks or negative social and environmental impacts. Most LGU projects are multi-user projects (e.g., water supply projects), hence, the project revenues, costs and the cash flow available for debt service (CADS) are interrelated metrics that are difficult to forecast and are subject to business cycle risks;
2. The LGU must be cognizant of all the possible risks and how best to allocate and mitigate these. The scope and content of any financial support from the LGU must be clearly defined for such projects, all possible options analyzed and the impact on local budget ascertained; and
3. The LGU must be assured that the bid documentation components will lead to a successful and competitive PPP tender.

Hence, a project preparation report must be accomplished as part of the process of project selection taking the strategic infrastructure requirements of the local community into account. The report consists of a feasibility assessment, appropriate contractual arrangement and security package. The report will form part of the project outline business case (OBC), which is submitted for approval to the local sanggunian, the local development council or the NEDA Board’s Investment Coordination Committee before a candidate PPP project is tendered.

Chapter 2 of this volume defines what a complete project proposal is and will walk the reader through its preparation, highlighting key concepts and analytical tools that an LGU should understand. Chapter 2 is supplemented by Technical Notes 1 which gives relevant detailed guidelines on the requisite compliance with environment, gender analysis and social analysis, including indigenous people, land acquisition and social acceptability and by Technical Notes 2, which provides a guide for the LGU in appraising projects proposed for PPP implementation.
1.1.2 Approval Phase

After the development stage, projects undergo the appraisal and approval process. Under this phase, proposed projects, depending on their scale and magnitude, are evaluated by the local and national approving bodies as described below.

<table>
<thead>
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<th>Levels</th>
<th>Description</th>
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<tr>
<td>President</td>
<td>• All Build-Operate-Own projects and other schemes not defined in Section 2 of RA 7718, subject to the recommendation of the NEDA Board’s Investment Coordination Committee</td>
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</table>
| Investment Coordination Committee (ICC) | • Local projects costing above Php200 million  
• All unsolicited proposals regardless of project cost |
| Regional Development Council (RDC)  | • Local projects costing above Php50 million up to Php200 million          |
| City Development Council (CDC)      | • Local projects costing up to Php50 million                                  |
| Provincial Development Council (PDC) | • Local projects costing above Php20 million up to Php50 million           |
| Municipal Development Council (MDC) | • Local projects costing up to Php20 million                                  |

Source: Section 2.7 of the RA 7718
The BOT Law prescribes two implementation tracks: competitive bidding and unsolicited proposals. Each track has a distinct approval process. These approval processes are discussed in more detail in chapter 3 of this volume.

**Competitive Bidding** - Under this track the LGU is required to undertake identification of the project and preparation of the project proposal, and is responsible for: i) determining project feasibility; ii) securing project approval as defined in Table 2-1 above; iii) packaging the PPP project arrangement and conducting the public tender; iv) entering into the PPP contract; and v) monitoring the contract execution. The approval process for competitively-bid projects is shown in Figure 2-3 below.

**Unsolicited Proposals** - The process for unsolicited proposals also starts with project identification and preparation of the feasibility study, but these are undertaken by a private project sponsor. The latter is expected to submit company information that will be used for qualification; a feasibility study and the proposed contractual arrangement that will be used to evaluate whether to accept or reject the proposal. If the proposal is accepted the LGU will secure project approval as outlined in Table 2-1. The approving authority sets a reasonable rate of return and the negotiating parameters. The LGU then negotiates the project scope, implementation arrangements and terms of the contract with the private sector sponsor. If negotiations are successful the LGU goes back to the approving authority for final approval of the project. Upon approval the LGU then launches a Swiss challenge or price test. The Swiss Challenge is akin to a competitive bid. The only difference is that the original proponent is given the right to match the winning bid. The proponent is automatically awarded the contract if it is the winning bidder or if it is able to match the challenger’s bid. The approval process for unsolicited proposals is shown in Figure 2.4.
1.1.3 **Competition Phase**

In principle solicited and unsolicited proposals, go through the same competitive process; the essence of which is to select the most advantageous offer to the Government in a rational and objective manner. Hence for tenders to be transparent and successful, the bid terms and conditions and the bid evaluation criteria must be clear and consistently applied. Process flow wise, the BOT Law IRR stipulates the steps, timeline and bid requirements; as well as safeguards to ensure that potential bidders are given equal opportunities and equal access to information, and are bound by the same timeline so that no one is given undue advantage over another bidder. The procurement process is discussed in more depth in chapter 4 of this volume.

The competition process is handled by the LGU’s Prequalification, Bids, and Awards Committee (PBAC). As provided in the IRR of RA 7718, LGUs are required to create a PBAC for PPP projects. The PBAC is responsible for all aspects of the pre-bidding and bidding process of solicited proposals. In particular, it will prepare the tender documents and bid evaluation criteria, as well as manage the process from publication to contract award.

This chapter is complemented by Technical Notes 3, which provides sample PBAC assessment forms, particularly on prequalification and technical evaluation.

In the case of unsolicited proposals, the PBAC is responsible for conducting the Swiss challenge, which is the same in scope as the competitive process but with shorter timelines. The prescribed composition of the PBAC is shown in Box 2-1.
1.4 Cooperation

The cooperation period commences with post award negotiation and contract execution. Post award negotiation is often a step that is taken for granted, but can in fact be a significant pitfall. If not done with adequate scrutiny it can affect or alter the project risk allocation. The key question is who reviews the documentation (other than the LCE and his staff) before financial close. Since the bulk of the project documentation is developed after the project agreement is initialed, it is possible that only the LCE and his staff are aware of its scope and content.
To address a possible check and balance issue the local sanggunian can designate a monitor, who will review post-tender documents, such as:

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Agreement</td>
<td>Pre-tender, part of the tendering package but subject to clarifications</td>
</tr>
<tr>
<td>Schedules to the Project Agreement</td>
<td>Post-tender</td>
</tr>
<tr>
<td>Engineering and Construction Contract</td>
<td>Post-tender</td>
</tr>
<tr>
<td>O&amp;M Contract, if required</td>
<td>Post-tender</td>
</tr>
<tr>
<td>Joint Venture Agreement, if required</td>
<td>Post-tender</td>
</tr>
<tr>
<td>Subordination and Funding Agreement, if required</td>
<td>Post-tender</td>
</tr>
<tr>
<td>Equity Guarantee or Standby funding arrangement</td>
<td>Post-tender</td>
</tr>
<tr>
<td>Trustee Agreement(s)</td>
<td>Post-tender</td>
</tr>
</tbody>
</table>

At project operation stage, the LGU and the private proponent are bound to fulfill their respective obligations according to the project agreement. Recourses for non-performance or defaults in obligations are usually covered by performance bonds, curing periods and guidelines, arbitration and ultimately termination provisions.

### 1.1.5 Monitoring and Evaluation

Monitoring and evaluation cut across the different phases of the PPP framework as presented in Figure 2-1 of this volume. Among the critical aspects that should be monitored and evaluated at each phase are:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Critical Aspects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development</td>
<td>• Optimal project selection</td>
</tr>
<tr>
<td></td>
<td>• Complete and robust project preparation</td>
</tr>
<tr>
<td></td>
<td>• Adequate risk analysis and management plan</td>
</tr>
<tr>
<td>Approval</td>
<td>• Validation of project feasibility</td>
</tr>
<tr>
<td></td>
<td>• Reasonable risk allocation and government support</td>
</tr>
<tr>
<td></td>
<td>• Reasonable and affordable tariffs</td>
</tr>
<tr>
<td>Competition</td>
<td>• Compliance with the prescribed bidding process and requirements of the BOT Law and its IRR</td>
</tr>
<tr>
<td>Cooperation</td>
<td>• Post award negotiation will not alter the risk allocation</td>
</tr>
<tr>
<td></td>
<td>• Compliance with contractual obligations of both parties</td>
</tr>
<tr>
<td></td>
<td>• Managing contingent liabilities</td>
</tr>
<tr>
<td></td>
<td>• Development impact of project</td>
</tr>
</tbody>
</table>
The PPP Development Phase

2.1 Project Identification

Every three years, at the beginning of each new administration the local development plans are prepared together with annual investment programs. These are requisite documents for budget preparation and appropriation process.

It is not clear how LGUs classify their long list of projects into PPP and non-PPP, or what criteria they employ to rank their projects. This is an area where the PPP process is weakened. Given this weakness, the next section introduces the possibility of using multivariate analysis (MVA) to segregate PPP from non-PPP projects. MVA methodology in this case would consist of carefully selected variables designed to screen out those projects that do not appear to be commercially sustainable. The MVA methodology may be combined with social cost benefit analysis (SCBA) to identify PPP projects considered to be strategic for long-term sustainable economic development.

Adopting the MVA methodology will not change the way projects are currently evaluated by approving authorities. Nonetheless, if they agree with this approach of prioritizing projects, the local sanggunians, in particular, can issue guidelines formalizing the use of MVA as a more rigorous system of PPP project selection as well as the application of SCBA in ranking projects according to their relative importance to the economy. It is important to note that MVA will not justify the viability of a PPP project; rather, it will only indicate which projects should be developed further. Nevertheless, with this technique, several criteria can be taken into account simultaneously where less than full information is available. Scoring rules, weighting and the methodology must be pre-determined and should not be changed during the process, so as to avoid manipulating the results, as will be apparent in the discussion below.
2.1.1 MULTIVARIATE ANALYSIS

PPP projects should be identified for potential inclusion in the local development plan based on:

- Commercial sustainability
- Potential development impact
- Moderate complexity
- High operating costs relative to total project costs
- Other planning and policy inputs

The MVA methodology consists of choosing a number of attributes (variables) that are likely to be predictive of commercial sustainability, strong development impact, appropriate complexity or high operating costs, other planning and policy inputs and applying these criteria to a number of similar projects to determine the degree to which each project appear to possess each of the attributes.

The general criteria to select and prioritize projects suitable for implementation under PPP should reflect two main requirements: Policy and planning criteria, as set forth in the local development plan, and sector or basic services needs, such as water supply. For a project to be included in either of these plans, it may be necessary for it to possess certain attributes. For example, priority projects should be:

- Able to achieve MDG targets
- Able to alleviate poverty
- Critical to other development projects (as in an integrated development approach);
- Able to increase human capital investment to support training and new job opportunities;
- Able to protect the environment and improve management of natural resources; and/or
- Able to develop, or meet demands for, needed infrastructure services as opposed to the rehabilitation of existing facilities.

These attributes can be used to prioritize sectoral or basic services projects, as identified in the list of devolved activities. It is also possible that the LGU may have its own set of project requirements. For example, if water supply is an identified need, it may require the following attributes: potability, affordability, and high accessibility. Moreover, for PPP projects special attention must be given to a review of the issues and risks that the private sector might consider important, such as:

- What exactly is the scope of the project?
- What is the nature and level of investment expected?
- What business is being offered and over what time frame?
- What special risks are involved in implementation or operation?
- What agencies will be involved on the part of the public sector?
- Who will be in charge of developing the project?
- What government policies will likely have an impact on the project?
In case such questions cannot be answered satisfactorily, the proposed project should not be processed further. In other words a critical pass/fail decision is introduced at the point of review by the LGU. This does not mean that the project is rejected outright, but it does mean that the project has to be redesigned and/or outstanding issues resolved.

The following criteria are suggested for the selection of PPP projects:

**Table 2-2: MVA Criteria for PPP Project Evaluation**

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Data/Information Needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socio-economic benefits</td>
<td>EIRR, if available from studies, or brief description of social and economic rational and benefits; factors such as employment, poverty alleviation and investment in human resource development should also be taken into account</td>
</tr>
<tr>
<td>Likely financial viability</td>
<td>Use of a simple and objective financial model, otherwise use available information from public markets and commercial centers</td>
</tr>
<tr>
<td>Land acquisition</td>
<td>Indication of the degree of complexity of land acquisition</td>
</tr>
<tr>
<td>Environmental Impacts</td>
<td>Indication of the degree of positive impact on environment as opposed to negative or complex aspects</td>
</tr>
<tr>
<td>Social Safeguards</td>
<td>Indication of the degree of complexity related to resettlement, impact on indigenous, poverty-stricken and/or other vulnerable groups</td>
</tr>
<tr>
<td>Risks</td>
<td>The number and gravity of the risks</td>
</tr>
<tr>
<td>Demand</td>
<td>Growth trends, total volume and demand/capacity ratios</td>
</tr>
<tr>
<td>Regional development</td>
<td>Regional impact and contribution to the regional economy</td>
</tr>
<tr>
<td>Stakeholder support</td>
<td>Indication of consultation with and the degree of support from various stakeholders</td>
</tr>
<tr>
<td>Sector strategy and plan</td>
<td>Importance of project in subsector strategy and plan</td>
</tr>
<tr>
<td>Safety aspects</td>
<td>Specific safety objectives being sought, are they complicated and costly (negative), or simple and conventional (positive)</td>
</tr>
</tbody>
</table>
The prioritization process then requires that all similar projects are evaluated using the same MVA methodology. This is a relatively simple, but well accepted procedure for ranking projects where hard data is limited. The procedure uses a mixed subjective/objective assessment of the selected criteria to provide a score for each attribute. These scores are then added and projects can then be ranked by their total score. The information required to complete the process will be a mix of hard and soft data.

MVA is a relatively simple way of ranking projects even before complete information is available. MVA should be carried out by a team of experienced professionals and not just by a single individual to ensure that the results of the analysis reflect the collective information and understanding of facts and issues possessed by the LGU.

The suggested scoring guideline in the table below is designed to attract private participation in the implementation and operation of PPP projects. The guideline incorporates two important considerations: (i) that at this point, it is critical to develop projects which are financially sound and robust and are not burdened by a host of complex issues which could dampen private sector interest and/or delay the project; and (ii) that government funds available for project development are very scarce which implies that they need to be applied, if at all, only to those projects which have a high chance of success. A low score will make private sector participation very problematic and projects in this category should not compete with projects that have a much better chance of success. Thus, with respect to the first 6 criteria, which are considered critical for private sector interest, a low score (ranging from 3 to 1 based on a 5-point scoring system) will result in the project being screened out for further processing as a PPP project candidate. Conversely, those that rank high can proceed to feasibility study preparation.

**Table 2-3: Guidelines for Scoring**

<table>
<thead>
<tr>
<th>Criterion</th>
<th>High Score 7-10 points</th>
<th>Medium Score 6-4 points</th>
<th>Low Score 3-1 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Socio-economic benefits</td>
<td>EIRR &gt; 20%</td>
<td>EIRR &gt; 15%</td>
<td>EIRR &lt; 15%</td>
</tr>
<tr>
<td>2. Likely financial viability</td>
<td>FIRR &gt; 20%</td>
<td>FIRR &gt; 14%</td>
<td>FIRR &lt; 14%</td>
</tr>
<tr>
<td>3. Land acquisition</td>
<td>No land acquisition involved, or some but not complex</td>
<td>Medium complexity owing to amount and issues</td>
<td>Very complex and problematic owing to number and seriousness of issues</td>
</tr>
<tr>
<td>4. Environmental impacts</td>
<td>No impacts, or some, but issues are not complex</td>
<td>Medium complexity-impacts are few and not serious</td>
<td>Many issues / severe impacts</td>
</tr>
</tbody>
</table>
### 2.2 PPP Project Risks

Critical in developing PPP projects is how to mitigate risks which have been identified in the above screening process. Risks refer to the “quantifiable likelihood of loss or less than expected returns” in investment.

Managing risks require its allocation or mitigation. This is the process of formulating strategic policies or making policy adjustments for the benefit of the private sector partners in the PPP scheme. The aim of risk allocation or mitigation is to minimize project risks on the side of the private sector partners, which would otherwise be ‘passed on’ to service users through higher costs. By making risk burdens lower for the private sector, the cost of accessing a particular service being provided by the PPP project would not be transferred to the users, hence, ensuring affordability. Risk allocation is done through clearly specified contractual warranties or assurances such that when a specific event occurs, the party who would bear the economic consequences is clearly identified.

The tables in the succeeding sections illustrate the typical risks embedded in every stage of a PPP project life.

<table>
<thead>
<tr>
<th></th>
<th>Development</th>
<th>Approval</th>
<th>Competition</th>
<th>Cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Social safeguards</td>
<td>None, or few, affected but not seriously</td>
<td>Medium complexity because of number of issues involved</td>
<td>Large number of people affected and/or seriousness of issues FAIL</td>
<td></td>
</tr>
<tr>
<td>6. Risks</td>
<td>Few issues / risks</td>
<td>Some issues / risks but can be managed</td>
<td>Many issues / risks which are not easily managed</td>
<td></td>
</tr>
<tr>
<td>7. Demand aspects</td>
<td>Growth &gt;15% Total volume &gt;5 million, or equivalent Demand capacity ratio &gt;1.2</td>
<td>Growth 5-15% Total volume 2.5 million, or equivalent Demand capacity ratio 8-1.2</td>
<td>Growth &lt;5% Total volume &lt;2 million, or equivalent Demand capacity ratio &lt;.8</td>
<td></td>
</tr>
<tr>
<td>8. Regional development</td>
<td>Impact on low GRDP states and/or high poverty alleviation focus</td>
<td>Impact on medium GRDP states and/or medium poverty alleviation focus</td>
<td>Impact on high GRDP provinces and/or low poverty alleviation focus</td>
<td></td>
</tr>
<tr>
<td>9. Stakeholder support</td>
<td>Evidence of strong support from all / most stakeholders</td>
<td>Mixed support from all / most stakeholders</td>
<td>Low level of support or lack of support from most stakeholders</td>
<td></td>
</tr>
<tr>
<td>10. Subsector strategy and plan</td>
<td>Forms integral part of, and already included in plans</td>
<td>Part of sub-sector plan</td>
<td>Ad hoc project but not in conflict with sector plan</td>
<td></td>
</tr>
<tr>
<td>11. Safety aspects</td>
<td>High safety focus</td>
<td>Moderate safety focus and impacts</td>
<td>Low safety focus and impacts</td>
<td></td>
</tr>
</tbody>
</table>
2.2.1 MAJOR CATEGORIES OF PROJECT RISKS

There are four categories of project risks that align and occur within the different stages of the PPP project life. These are: (1) general risks, (2) pre-commissioning risks, (3) post-commissioning risks, and (4) project lifetime risks.

Construction is often identified as being the riskiest phase of most PPP projects, while most risks tend to taper towards the latter part of a PPP project’s lifetime.

**Figure 2-5: PPP Project Stages and Corresponding Risks**

![Diagram showing PPP project stages and corresponding risks]

**General Risks**

General risks are project risks present during all phases of the project. Key examples include:

- **Pre-contract risks.** This refers to the risk that the procurement process will experience any of the following (a) failure to attract sufficient qualified bidders and/or responsive offers; (b) prolonged and expensive negotiations; (c) collapse of negotiations.

- **Project disruption caused by events outside the control of the parties.** This refers to risks brought about by force majeure events that could disrupt the project such as (1) natural disasters—floods, storms or earthquakes; (2) man-made disasters—riots, mass strikes, blockades by third-party governments or terrorist attacks. Such unforeseen or extraordinary events may cause a temporary interruption of the project implementation or its operation, resulting in construction delay, or loss of revenue. Disastrous events may cause physical damage to the project or destruction beyond repair. Risks of a physical nature or the result of human action can be divided into two subcategories: (1) insurable events; and (2) uninsurable events.
- **Project disruption caused by adverse acts of the Government (political risks).** This refers to risks caused by adverse acts of the LGU, including the local sanggunian. Such risks are often referred to as political risks and may be divided into three broad categories: (1) traditional political risks such as confiscation, expropriation, deprivation (CEND risks) of the project company’s assets or the imposition of new taxes that jeopardize the project company’s prospects of debt repayment and investment recovery; (2) regulatory risks such as introduction of more stringent standards for service delivery, the opening of a sector to competition, or the imposition of tariffs which do not reflect full cost recovery; and (3) quasi-commercial risks such as breaches by the LGU or project interruptions due to changes in the LGU. These risks may also be classified into insurable and uninsurable risks.

- **Non-performance of government undertaking.** A good example of this risk is when the LGU commits to pay a predetermined amount provided a good or service is made available thereto, such as in the case of bulk water supply. In case the supply is more than the demand, the LGU may not have enough resources to pay for the surplus water.

- **Inflation and Financial risks.** Inflation refers to price increases over time. Financial market risks commonly relate to fluctuations in loan interest rates. If fixed rate financing is unavailable, the project company faces the possibility that interest rates may rise and force the project company to bear additional financing costs. This risk may be significant in infrastructure projects given the usually large sums borrowed and the long duration of projects, with some loans having long maturities. Proponents are better off getting loans with fixed interest rates or at least hedging facilities such as interest rate caps.
### Table 2-4: General Risks and Possible Coverage Mechanisms

<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
</table>
| Project Disruption Caused by Events Outside the Control of the Parties  | These risks are widely varied and can either be man-made (e.g. civil war, revolutions) or naturally occurring (e.g. natural calamities such as earthquakes, etc.). Typically, force majeure risks are not reasonably covered by insurance mechanisms. Such unforeseen or extraordinary events may cause a temporary interruption of the project implementation or operation, resulting in construction delay, loss of revenue and other damage. Severe events may cause physical damage to the project or even destruction beyond repair. | This is often a contentious and grey area. Best practice is to agree for the LGU to offer coverage up to 50% of uninsurable and uncontrolable natural and political events if it is clear that (a) the risk is truly uninsurable or only insurable at price that is unreasonable; and (b) the lender requires the cover as a precondition for extending the loan(s). Ideally, the provisions of the Project Agreement will stipulate that the LGU and the developer will share the obligation to:  
(a) Rehabilitate the project, if damaged;  
(b) Provide for consequential loss of income for the period the project is out of commission; or  
(c) LGU will pay 50% of the loss experienced by the project upon termination, based on an agreed formula.  
When identifying and negotiating these risks, it is important for the LGU to have professional advice from insurance experts. The lenders may adopt the view that the LGU should cover their residual exposure to the project company since it is the party best able to bear the financial consequences of the risk. |
<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
</table>
| Project Disruption Caused by Adverse Acts of the LGU or Its Instrumentalities (Political Risks) | Risks in this basket can be segregated into three broad categories:  
Traditional political risks, such as confiscation, expropriation, nationalization or deprivation (CEND) of project rights, benefits, or assets. The risks could also include imposition of new taxes that jeopardize the project company’s prospects for debt repayment, investment recovery and profit;  
Regulatory risks, for example, introduction of more stringent standards for service delivery or opening of a sector to competition; and  
Quasi-commercial risks, for example, breaches by the LGU or project interruptions due to changes in the LGU’s priorities and plans.                                                                                                                       | Generally, the LGU would be expected to assume 100% of the financial consequences of this Risk Basket. For each broad category of political risks identified in the left column, the LGU would be expected to provide compensation for:  
(a) Consequential loss of income due to:  
• New and higher taxes, or new regulatory standards, that call for unanticipated capital expenditure and/or the loss of cash flow; and  
• Loss of revenue, particularly the introduction of competition, if due to breach of contract; and/or  
(b) Termination payments in the event of a CEND event or other breach followed by a cure period in which no agreement is reached as to how best to go forward. |
| Inflation and financial risks                   | Inflation risk is caused by the unexpected rise in input prices for the project, and is primarily felt during the construction phase (e.g. an unexpected rise in building materials). These are normally caused by macro-level changes, such as the rise in interest rates, increased labor costs and fluctuations in foreign exchange rates. In effect, the cost involved in conceptualizing, constructing, and operating the project would be higher than originally projected.  
Financial risk is caused by an increase in the cost of borrowing, particularly interest rate fluctuations.                                                                                                                                       | An LGU can require a fixed price, date-certain, lump-sum, turnkey contract for the construction of the facility, while the project proponent can include price escalation clauses or parametric rate adjustment formula for tariffs of services provided to cover inflation, among other cost factors.  
To mitigate financial risks proponets should secure fixed interest rate loans or hedge through interest rate caps.                                                                                                                                   |
<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government performance risks</td>
<td>These are risks brought about by the concerns of both lenders and equity investors on the ability of the LGU or any cooperating government agency to fulfill its obligations in the risk-sharing arrangement. For instance, lenders might consider an LGU with an unstable revenue base as prone to default on the risk allocations agreed upon.</td>
<td>Provide limited sovereign guarantees such as performance undertakings the national government may also guarantee the contractual obligations of the contracting local government with its “full faith and credit.” However, current national government policy suggests this is for very rare and exceptional cases only. Alternatively, the LGU may get commercial guarantees for government performance risks such as off-take obligations from such agencies like the LGU Guarantee Corporation or Philippine Export Import Credit Agency (otherwise known as the Trade and Industry Development Corporation of the Philippines.)</td>
</tr>
</tbody>
</table>
## Pre-Commissioning Period Risks

The main risks that the parties may face during the pre-commissioning period are: (1) completion risks - the project cannot be completed at all; (2) construction delay risks – the project cannot be delivered according to the agreed schedule; (3) cost overrun risks - the actual construction cost exceeds the original cost estimates; and (4) performance risks - the project fails to meet the performance criteria at completion. The project company, its contractors and suppliers, can in certain cases create risks. For instance, construction cost overrun and delay in completion may be the result of inefficient construction practices, waste, insufficient budgeting or lack of coordination among contractors. Failure of the project to meet performance criteria may also be the result of defective design, inadequacy of the technology used or faulty equipment delivered by the project company’s suppliers. However, some of these risks may also result from specific actions undertaken by the LGU or by other public authorities. Performance failures or cost overruns may be the consequence of the inadequacy of the technical specifications provided by the LGU during the selection of the concessionaire. Delays and cost overruns may also be brought about by actions of the LGU subsequent to the award of the project (delays in obtaining approvals and permits, additional costs caused by changes in requirements due to inadequate planning, interruptions caused by inspecting agencies or delays in delivering the land on which the project is to be built). General legislative or regulatory measures, such as more stringent safety or labor standards, may also result in higher construction or operating costs. Shortfalls in production may be caused by the non-delivery of the necessary supplies (e.g., power or water) on the part of public authorities.

Other risks that occur in the pre-commissioning period include delays in project completion due to force majeure and the bankruptcy of shareholders and suppliers.

### Table 2-5: Pre-Commissioning Period Risks and Possible Coverage Mechanisms

<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion risk</td>
<td>• The project cannot be completed at all or cannot be delivered according to the agreed schedule (completion risk);</td>
<td>This risk can be covered on three levels. The primary means of covering completion risk is through a turnkey contract. This type of contract stipulates liquidated damages for delays in construction period. It is important that the price of turnkey projects be higher than usual contracts, in order to compensate the builder for taking on the completion risk.</td>
</tr>
<tr>
<td>Cost overrun risk</td>
<td>• Construction cost exceeds the original estimates (cost overrun risk);</td>
<td>The secondary level of coverage by direct management of the project company, and indirectly by equity investors. Equity is often eroded by delays or cost overruns and is not covered by damages from the contractors.</td>
</tr>
<tr>
<td>Performance risk</td>
<td>• The project fails to meet performance criteria at completion (performance risk).</td>
<td>The tertiary level of risk coverage is through performance bonds.</td>
</tr>
</tbody>
</table>
**Post-Commissioning Period Risks**

Risks during the post-commissioning period are manifested in cash flow shortfalls that arise from the failure of the facility to perform according to technical specifications. This risk is usually mitigated by a warranty period which conforms to the period of greatest risk after construction work is done and usually lasts from one to two years.

<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Risks</td>
<td>The risk that the project will not perform according to technical specifications.</td>
<td>This risk can be covered by warranties from equipment suppliers or the consortium of construction suppliers involved in the PPP initiative.</td>
</tr>
</tbody>
</table>

**Table 2-6: Post-Commissioning Period Risks and Possible Coverage Mechanisms**

**Project Lifetime Risks**

These are the risks that the project may face throughout its operating period, after it has been commissioned. There are different risks that may crop up long after the warranty period, which are beyond the control of the parties involved in the PPP project. These risks are presented in Table 2-7.

<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt service interruption risks</td>
<td>Lenders to PPP initiatives will insist on elaborate escrow arrangements to cover forward debt service and protect itself from sudden decreases in cash flow that may disrupt remittance of debt repayment.</td>
<td>Depending on the perceived extent of risk of the PPP project, escrow accounts may be established that can range from three months to a year of forward debt service.</td>
</tr>
</tbody>
</table>

**Table 2-7: Project Lifetime Risks and Possible Coverage Mechanisms**
<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Definition</th>
<th>How can it be covered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market or commercial risks</td>
<td>These relate to the possibility that the project cannot generate the expected revenue because of changes in market prices or in demand for the goods or services it generates. Both constituents of commercial risk may seriously impair the project company’s capacity to service its debt and may compromise the financial viability of the project. Commercial risks vary greatly according to the sector and type of project. The risks may be regarded as minimal or moderate where the project company has a monopoly over the service concerned or when it supplies a single, or at best, a few clients through a standing off-take agreement. However, commercial risks may be considerable in projects that depend on market-based revenues, in particular where the existence of alternative facilities or supply sources makes it difficult to establish a reliable forecast of usage or demand. This may be a serious concern, for instance, in water supply projects, since the utility can face competition from private water vendors or even households digging their own shallow wells.</td>
<td>At the minimum, the government will have to set an environment in which the local PPP project will operate in. There are three general approaches of mitigating this type of risk. First, the LGU or implementing agency undertakes a pledge of no competition, i.e., promises not to set up or allow an establishment of a competing facility during the cooperation period. Second, there can be a ‘take or pay’ arrangement wherein the LGU will be commits to ‘buy’ a specific number of units of the service being provided by the PPP facility whether or not there is sufficient demand for such service. In this case, cash transfers from the LGU or implementing agency is set in place, and should be sufficient to either cover the private partner’s debt payments or more substantially, cover both debt and a specified proportion of profit. Third, and perhaps the heaviest allocation for the local government, is that it bears all risks. In this setup, the government will cover all market risks involved to attract private sector participation. This type of setup is usually done through build-transfer or build-transfer-operate arrangements. The latter is however contrary to national policy that market risks should be borne by the private sector, and the most that the LGU should ensure is the agreed initial tariff and the rate adjustment formula.</td>
</tr>
<tr>
<td>Feedstock risks</td>
<td>This is a risk that a major material input to produce the PPP facility will not be available, such as when there is a sudden lack of water supply for a water project</td>
<td>The LGU may opt to supply the scarce material input (e.g. fuel, equipment, etc.) or the LGU may elect to have the proponent source the scarce material input. A new risk in the case of the second option would be a risk premium, which the private partner would have to recover from the service fees and charges.</td>
</tr>
</tbody>
</table>
### Type of Risk | Definition | How can it be covered?
--- | --- | ---
Operating risks | During the operational phase the parties may face the risk that the completed project cannot be effectively operated or maintained to produce the expected capacity, output or efficiency (performance risk); or that the operating costs exceed the original estimates (operation cost overrun risk). The LGU and the users in the host community may be severely affected by an interruption in the provision of needed services. The LGU may have to deal with safety risks or environmental damages due to improper operation of the project. | This type of risk can be covered by performance guarantees in an operating and maintenance contract, which is assumed primarily by the private partner.

### 2.2.2 RISK TEMPLATES

Identifying and understanding the different kinds of project risks and their financial impact are only the first steps in risk allocation. The next, and perhaps more crucial step, is deciding who would bear the risks. Projects which belong to the same sector oftentimes require the same allocation of risks between parties, due to similar sectoral characteristics. Waterworks projects implemented under PPPs for instance will generally be exposed to completion risks, as they require infrastructure facilities. Private investors generally prefer a well-established path: proponents would apply the risk allocation implemented in previous transactions, to prospective projects so as to facilitate packaging and financing.

The risk-sharing templates as presented in Table 2-8 follow these cardinal rules:

- Specific risks are normally allocated to the party that is best able to manage controllable risks; or best able to insure uncontrollable but insurable risks; or best able to bear the financial consequences of uncontrollable and uninsurable risks
- PPP in the Philippines’ infrastructure program, as a general rule, should focus on financially viable projects that can provide a service at an affordable tariff, i.e., projects that do not require government investment subsidies, operating subsidies, and, to the extent possible, other contingent liabilities
The illustrative examples are based on the following assumptions:

- A minimum of government support is the primary (but not exclusive) consideration.
- Each risk template identifies the typical risks the LGU bears, although risk-sharing has to be done in a manner not to discourage investors.
- Only seven risk templates are provided:
  - Site or right of way (ROW) acquisition
  - Completion
  - Operations
  - Market or commercial risk
  - Political force majeure
  - Environmental/ disaster risks
  - Government performance
- Risk templates represent a dynamic process: what may apply in a certain year may not necessarily work three years hence, as local and international macroeconomic factors affect how proponents and banks assess the bankability of projects.

### Table 2-8: Risk-Sharing Template for Sector Projects

<table>
<thead>
<tr>
<th>Risks</th>
<th>Responsible Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Market</td>
</tr>
<tr>
<td></td>
<td>Private</td>
</tr>
<tr>
<td>Site</td>
<td>/</td>
</tr>
<tr>
<td>Completion</td>
<td>/</td>
</tr>
<tr>
<td>Operation</td>
<td>/</td>
</tr>
<tr>
<td>Market</td>
<td>/</td>
</tr>
<tr>
<td>Political</td>
<td>/</td>
</tr>
<tr>
<td>Environment</td>
<td>/</td>
</tr>
<tr>
<td>LGU Performance</td>
<td>/</td>
</tr>
</tbody>
</table>

To illustrate this risk-sharing concept, three examples of PPP projects covered in volume 3 of this manual, namely, public market and commercial center, government administrative center, and water supply, are discussed below.
Public Market and Shopping Center

Public markets and shopping centers are two of the most preferred projects by LGUs for PPP implementation because of their high commercial value. The projects are usually done under a BOT arrangement. Under this arrangement, the private proponent builds and operates the facility over a fixed term during which it is allowed to charge a fee to facility users. The proponent will transfer the facility to the LGU after the agreed fixed term, not exceeding 50 years. Below are highlights of the proponent and the LGU’s responsibilities.

<table>
<thead>
<tr>
<th>Private Proponent</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Design, finance, build and operate and maintain the facility</td>
<td>• Issue exclusive franchise</td>
</tr>
<tr>
<td>• Provide construction warranties and operation performance bond</td>
<td>• Provide site for the public market</td>
</tr>
<tr>
<td>• Collect fees, rentals and other charges not exceeding the amounts proposed in the bid</td>
<td>• Provide tax incentives such as deferment of real property and business taxes</td>
</tr>
<tr>
<td></td>
<td>• Collect the necessary taxes and fees from, and issue licenses and permits to business establishments operating in the public market</td>
</tr>
<tr>
<td></td>
<td>• Provide termination/buy out payment if contract is cancelled due to LGU’s fault</td>
</tr>
</tbody>
</table>

Government Administrative Center

LGUs can use the PPP program to build government administrative centers, instead of using their budgets for these. The private proponent usually integrates high-technology building systems into the physical structure, such as electrical raceways, computer network, fiber optics, etc., making it a “smart” building. Most of the space will be used for offices of national and local government offices, and the rest can be allocated for private concessionaires. In the example in volume 3, the proposed scheme is a build-lease-transfer arrangement. The private developer will construct the building in a public land, arrange for the lease of office space to the LGU and national government agencies, manage the building, and then turn it over to the LGU after an agreed period of time. To improve the viability of the project, space will be allocated for lease to the private sector. The LGU will not have a share in revenues during the concession period. Below are highlights of the proponent and the LGU’s responsibilities.

<table>
<thead>
<tr>
<th>Private Proponent</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Design, finance, build and operate and maintain the facility</td>
<td>• Pay lease for the office space to the developer</td>
</tr>
<tr>
<td>• Provide construction warranties and operation performance bond</td>
<td>• Issue exclusive franchise</td>
</tr>
<tr>
<td>• Collect fees, rentals and other charges not exceeding the amounts proposed in the bid</td>
<td>• Provide site for the building</td>
</tr>
<tr>
<td>• Prior to transfer to the LGU, train LGU staff on the operation of the center</td>
<td>• Provide tax incentives such as deferment of real property and business taxes</td>
</tr>
<tr>
<td></td>
<td>• Provide termination/buy out payment, if contract is cancelled due to LGU’s fault</td>
</tr>
</tbody>
</table>
## Water Supply

LGU-run water utilities serve 50% of the population in the community. However they have the weakest performance indicators compared to other water service providers such as the water districts and other private service providers. A PPP arrangement is one way of improving the water service. In the example discussed in volume 3 of this manual, the most appropriate scheme is for a BOT arrangement. In some cases where existing distribution networks are already operated by the LGU, the PPP contract can be limited to water source development and treatment. Below are highlights of the proponent and the LGU’s responsibilities.

<table>
<thead>
<tr>
<th>Private Proponent</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design, finance, build and operate and maintain the facility</td>
<td>Issue exclusive franchise</td>
</tr>
<tr>
<td>Provide construction warranties and operation performance bond</td>
<td>Pass ordinance for cost-based tariffs, non-refundable service connection fee and authority for water operator to disconnect service of concessionaires for non-payment of water bill</td>
</tr>
<tr>
<td>Charge fees, rentals and charges not exceeding the amounts proposed in the bid</td>
<td>Provide right of way for the deep wells, transmission and distribution mains, laterals and service manholes, and site for office building</td>
</tr>
<tr>
<td></td>
<td>Provide termination/buy out payment, if contract is cancelled due to LGU’s fault</td>
</tr>
<tr>
<td></td>
<td>Take over facility in case of default by the private proponent</td>
</tr>
</tbody>
</table>

### 2.3 PROJECT PREPARATION

A well prepared PPP project proposal consists of 5 components:

3. **Technical Assessment Study**, which includes a preliminary design with sufficient technical ground surveys to prepare a capital cost estimate to within ±20%. The design process identifies and records the relevant design standards, together with primary design criteria that are compatible with the project’s objectives and location. The outline design examines alternative sites and alternative layouts at each site, so that a number of feasible options for the PPP project could be identified that would provide the basic operational requirements. This process also identifies physical limitations on available sites that could restrict the design layout. A cost estimate should be prepared for each development alternative that clearly identifies all major elements including engineering works, environmental mitigation works, service diversion costs, accommodation works, land costs, and resettlement costs. The operational and maintenance costs should be determined for each element of the alternative technical solutions. Some maintenance costs will be routine in nature and others will need to be estimated on a periodic basis. The preliminary cost estimate must also be accompanied by an outline implementation program reflecting the timing and interrelationships of all of the major components of the project. The technical specification must conform to the least cost solution to meet the projected demand for the service (phased if necessary) and other objectives. Preliminary technical evaluation is usually initiated as soon as a project is identified and selected for PPP implementation. The data that is gathered at this stage is
needed in order to (1) arrive at a 'least cost' solution for implementation and (2) complete a social cost benefit analysis (SCBA). SCBA will explore the different technical configurations of a project in order to determine which option yields the greatest economic benefit. If this is done well, it becomes easier to assess the project from the perspective of SCBA prior to, or when the investment appraisal is initiated.

4. **Demand/Market Study**, encompassing demand forecasts for the product or service the project will deliver. Forecasts should be derived for short, medium and long term (5, 10, 15+ years) and should provide for different growth scenarios.

5. **A Social Cost Benefit Analysis (SCBA)**, that sets forth the rationale for undertaking the project based on the economic benefits to the community. The economic viability indicators are economic internal rate of return (EIRR), economic net present value (ENPV) and present value (PV) of economic benefits/PV of economic cost (B/C ratio).

6. **Environment, Social and Gender Impact Analysis** identify all social impacts and resettlement activity, proposed mitigation and their related costs. Social studies should conform to Philippine social impact regulations including that which relates to indigenous peoples if relevant. Environmental Impact Assessment Study includes outputs from environmental studies and consultation shall serve as key inputs in the preparation and formulation of necessary environmental impact statements, management and mitigation plans and other activities, particularly disaster risk mitigation, and climate change adaptation, that defines and addresses all major impacts, proposed mitigation and the broad estimate of mitigation costs. Environmental studies should conform to Philippine environmental regulations.

7. **Financial Analysis** examines the viability, stability and profitability of a project by looking at financial indicators such as financial internal rate of return (FIRR), financial net present value (FNPV), payback period (cost of project/projected annual cash flow) and debt service cover ratio (DSCR). Using a financial model various financial scenarios are simulated to determine tariff structure, tariff path and escalation, extent of cost recovery, debt-equity options, debt service options, requisite government support, etc. The financial model is also used to undertake a sensitivity analysis as well as outline a financial structure that shows funding sources for each component of the project.

The financial analysis must include a technical description and a project implementation plan that identifies all relevant engineering and non-engineering components. It must include a preliminary outline design, containing technical specifications such as location, technology, right of way requirements, and initial capacity. The preliminary output design must also contain a construction schedule, standard of project outputs and performance standards which will provide the basis of the minimum technical requirements to be included in the Request for Proposals (RFP).

The market sounding process is to be undertaken towards the end of the financial analysis when there is sufficient data that will permit a substantive discussion with the private sector, including both potential contractors and investors. The feedback from the market sounding is integrated into the final project structure. For example, the private sector may point out fundamental problems with the proposed project structure that will need to be revised if the tender is to be successful.
2.3.1 TECHNICAL ANALYSIS

Project Scope and Rationale

Project scope can vary considerably, depending upon the type of project being proposed but it is important that the project scope should be clearly defined at the outset, with the objective of attracting private investment. An improperly defined project leads to overlooked costs, a mistake that happens quite often during economic and financial appraisal. For example, in estimating the costs of a water supply system, allowance should be made for insufficient yield of a groundwater source (which cannot be accurately predicted until the production well is dug), in which case another production well might have to be developed. There are no hard and fast rules but some consultants will opt to include contingency for another production well.

Furthermore, the project rationale and 'packaging' should be carefully considered. Thus, for example, whereas the water distribution network can be constructed through traditional means of public procurement, the source development and treatment could be packaged separately for PPP, under a bulk supply agreement.

Project Outline Design

Once a project has been proposed for PPP, a technical evaluation is necessary to confirm that the project is viable in general planning, engineering, and environmental terms and to provide an estimate of the construction, operation, and maintenance costs for the economic and financial evaluations. At this stage, major risks in relation to engineering and cost issues should also be identified.

The initial step in the design process is to identify and record the relevant design standards, together with primary design criteria that are compatible with the project’s objectives and location.

These criteria could include standards such as:

1. Water treatment quality should pass the Philippine National Standards for Drinking Water; and
2. Adequate quantity for 24/7 water availability and standard pressure of for example 10 pounds per square inch (psi) for residential connections.

All of these design standards and criteria must be prepared to fulfill any key performance indicator or minimum services standard (output basis, not input basis).
Review of Alternatives

The outline design will examine alternative sites, and alternative layouts at each site, so that a number of feasible implementation options that will provide the basic operational requirements for the PPP project could be specified. The outline design will also identify any critical areas where physical limitations on available sites could restrict the design layout.

It is also necessary to identify other facilities or components, which, although they may have no impact on the ability of the scheme to satisfy the primary operational requirements, are necessary due to safety or environmental protection considerations. These secondary facilities should be identified at this stage of the scheme development so that any necessary land and budget provisions can be incorporated in the proposal. For example a public market cum commercial center, which is expected to generate large volumes of waste water, will need an onsite wastewater treatment facility considering that sewerage connections in the Philippines are almost non-existent. To appraise such issues, site assessment will be required including geography, topography, geology, hydrology, etc.

Geotechnical Studies

A geotechnical desk study must be done during the outline design stage to identify general ground conditions in each alternative implementation area. The study will identify critical areas that should be avoided due to either unsuitable ground conditions or where construction costs are likely to be high. The importance of adequate geotechnical studies cannot be overemphasized. A relatively small amount, spent at this stage, will probably more than be compensated by accurate capital costs or prevention of a cost overrun.

Civil Works and Structures

All major civil works and structures for each scheme option should be identified during the outline design stage, together with relevant design codes. For each structure, a preliminary design should be prepared and evaluated to confirm viability.

Construction and Operational Costs

While full geotechnical, hydrological, structural, drainage and other technical studies are not required at this stage, sufficient technical work for the prefeasibility study must be undertaken to be able to cost the project (including alternatives) to within ± 20%.

A cost estimate should be prepared for each implementation option that clearly identifies all major elements including engineering works, environmental mitigation works, service diversion costs, accommodation works, land costs, and resettlement costs. A preliminary engineering design (PED) should be undertaken to determine project cost component estimates. These estimates should be based on the actual cost of recently completed projects and other cost databases that may be available.
In making these cost estimates, it is important to ensure that cost data obtained from different sources is converted to the required base year needed for the economic and financial analyses using appropriate inflation indices. For example, all cost estimates should be reflected in 2012 prices.

The operational and maintenance costs should be identified for each element of an implementation alternative. Some maintenance costs will be routine in nature, while others will need to be estimated on a periodic basis. Preliminary cost estimates must also be accompanied by an outline implementation program reflecting the timing and interrelationships of all of the major components of the project. The technical specification must conform to the least cost solution to meet the projected demand (phased if necessary) and other objectives.

### 2.3.2 ENVIRONMENTAL, GENDER AND SOCIAL IMPACT ANALYSIS

This section gives a broad overview of environment concerns, gender issues, and social considerations, including indigenous people, resettlement issues, indigenous people and social acceptability.

**Environment Impact Assessment**

The Environmental Impact Assessment describes the positive and negative effect of the project on environment and natural resources and the human communities where the project will be located.

*Environmental Impact Assessment Process*

It involves the identification, review and evaluation by the LGU, with technical assistance from experts or consultants, of the potential and perceived environmental risks and impacts of the proposed project. It also includes the identification of avoidance and mitigating measures and the preparation of environmental management plan (EMP) that shall be implemented to address the identified environmental risks and impacts of the proposed project.

An environmental impact assessment (EIA) is a structured analytical tool that is applied to proposed projects that fall under the country’s environmental impact assessment system. The LGU is mandated to submit the requirements under the EIA laws and regulations - to obtain the necessary environmental compliance certification for the proposed project. Part of the requirements for the issuance of the Environmental Compliance Certificate (ECC) is the documentary evidence that the project is socially acceptable to its stakeholders.

*Environmental Assessment Criteria/Determinants*

Environmental assessment criteria or project screening impact checklist are prescribed to conduct of a preliminary determination if an LGU project has any adverse impact on the environment. This is done at the project identification stage, where critical environmental risk questions or the use of an impact checklist will determine whether a proposed project will have significant impacts on the environment. Depending on the results of the project screening, the environmental assessment study and report required under the EIA law will apply. Hence, a project may be required a Project Description Document, or an Initial Environmental Examination Report, or a full blown Environmental Impact Statement depending on the potential severity of the proposed project’s impacts.
Below is a sample of a rapid checklist used for the initial environmental screening of proposed PPP projects.

### Site Selection Criteria and Guidelines for Proposed LGU PPP Projects

<table>
<thead>
<tr>
<th>Prescribed criteria and guidelines for selecting suitable sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. If project falls within National Integrated Protected Areas System as verified with DENR, approval from the Protected Area Management Board (PAMB) has to be obtained.</td>
</tr>
<tr>
<td>2. Project has to be consistent with the LGU’s comprehensive land use plan and with Strategic Agricultural and Fisheries Development Zones (SAFDZ).</td>
</tr>
<tr>
<td>3. Project has no significant potential negative impacts on ground or surface water.</td>
</tr>
<tr>
<td>4. Project is not located in high gradient and critical slope (&gt;50%) areas.</td>
</tr>
<tr>
<td>5. Project is not too near or encroaching on environmental critical areas (e.g., coral reefs, sea grasses, mangroves, strictly protected forests, buffer zones, etc).</td>
</tr>
<tr>
<td>6. Subproject is not located in environmentally hazardous areas (e.g., flood, landslide, earthquake prone areas).</td>
</tr>
<tr>
<td>7. Project is consistent with existing spatial plans and zoning regulations.</td>
</tr>
<tr>
<td>8. Water supply and sanitation schemes are at least 30 meters apart.</td>
</tr>
<tr>
<td>9. Project should not be located in disaster risk areas or declared danger zones.</td>
</tr>
<tr>
<td>10. Alien species are not introduced during aquaculture, reforestation and mangrove rehabilitation activities.</td>
</tr>
</tbody>
</table>

### Environmental Assessment Tools

- Project Description
- Environment Impact Assessment (EIA) – required for projects categorized as environmentally critical projects (ECPs);
- Initial Environmental Examination (IEE) – required for projects located in environmentally critical areas (ECAs)

### Gender Responsive Analysis

The Gender-Responsiveness Analysis describes the effect of the project on women and men and assess if the project confers high priority on gender equality goals.
Gender-Responsive Analysis Process

- The LGU assisted by a gender specialist or consultant formulates strategies and policies which benefit the general population cognizant of differences between social groups particularly between women and men and the differential impact of strategies and policies on them.
- The LGU assisted by a gender specialist or consultant identifies and selects supportive programs and projects that address gender issues and mitigate constraints and adverse impacts of the project on women and girls.
- The LGU assisted by a gender specialist or consultant prepares a Gender and Development (GAD) Plan that contains gender-responsive policy, program and project interventions. The plan is implemented as part of the PPP project.

The LGUs should consider the following gender mainstreaming framework:

- Participation of women and men in the full project cycle from project identification to implementation and operation.
- Collection of sex-disaggregated data or gender-relation information prior to project design
- Conduct of gender analysis and identification of gender issues
- Formulation of gender responsive strategies and programs
- Integration of gender strategies and programs (GAD Plan) in the project design
- Develop GAD monitoring targets and indicators
- Establish as part of the project’s monitoring and evaluation (M&E) system, gender database and M&E
- Allocate funds for GAD program implementation
- Formulate sustainability strategies and mechanisms for the implementation of GAD plan

Gender-Responsiveness Analysis Tools

- Gender analysis
- Gender mainstreaming framework and procedures
- Harmonized Gender and Development Guidelines for Project Development, Implementation, Monitoring and Evaluation – GAD Sector Checklist

Indigenous Peoples

PPP projects that affect Indigenous Peoples (IPs) should be thoroughly screened and evaluated by the LGU with the participation of IP leaders and with technical assistance or guidance from anthropology experts or consultants in order to safeguard IPs’ interest and rights. Proposed PPP project development and implementation must comply with the relevant provisions of the Indigenous Peoples Rights Act. When IPs culture, dignity, human rights, livelihood system, cultural resources, or ancestral lands are threatened directly or indirectly affected by the proposed project, a thorough social impact assessment is required. The measures to avoid or minimize the negative impacts on IPs are included in the Indigenous Peoples Plan (IPP) that must be prepared as part of the documentary requirement of the PPP project proposal.
Framework for mainstreaming IPs in the PPP Projects

Mainstreaming Indigenous Peoples in project development and implementation involves:
- their participation in planning and decision making;
- making sure that they benefit from the project; and
- making sure that they are not in any way adversely affected by the project

Tools for assessing project’s impacts on IPs
- Project impact checklist
- Project categorization based on significance of impacts

Tools for mainstreaming IPs
- Consultation and informed participation
- Consent of affected IPs and agreements/covenants on proposed project
- Grievance redress mechanism
- Monitoring, evaluation and reporting

Land Acquisition (ROW and Resettlement Concerns)

In the past, delays in ROW acquisition has been a major setback in project implementation, especially for PPP projects that typically have higher opportunity cost of financing. Present practice is to undertake land acquisition after the award of a concession which could cause delays in project implementation over a protracted period.

Ideally, land acquisition and resettlement activities should be undertaken prior to calling for tenders using the following approach: (1) ROW requirements should be defined at an early stage, estimated and budgeted in the feasibility study; (2) acquisition process should commence after feasibility study approval; and (3) process should be completed before going to tender or within a reasonable period from the approval of the PPP project. If this is not possible, the next best option, is to do all the necessary groundwork, e.g., surveys, consultations, identification of resettlement sites, etc., and line up all the required documentation or reports during the project approval to tendering stage, so that execution of the final steps to land acquisition can immediately take place and more importantly make sure that the necessary funds are available.

Land acquisition and resettlement maybe either be voluntary or involuntary. Land acquisition and resettlement is voluntary when an affected person willingly sells an affected asset, thereby obviating the need for the exercise of eminent domain struggles. It is considered involuntary when displaced individuals or communities do not have the right to refuse land acquisition that causes them to be displaced. This occurs in cases where (1) lands are acquired through negotiated settlements; or (2) lands are expropriated based on eminent domain.
Key Processes
The key processes and activities involved in undertaking involuntary resettlement and bringing about a successful outcome are as follows:

Project Design – clearly define project objectives and scope, and the potential impacts and measures to avoid or mitigate adverse impacts.

Resettlement Action Planning – conduct consultations and information dissemination about potential project impacts and benefits; prepare and disclose potential compensation entitlements; prepare census and detailed measurements of affected assets, and socioeconomic profiling of project affected persons (PAP); identify and prepare the development of relocation sites (where appropriate); determine appropriate compensation entitlements; establish institutional arrangements to implement the resettlement action plan (RAP) and address grievances; prepare budget and implementation schedule; and legitimize the RAP documents for implementation.

Resettlement Action Plan Implementation – validate issues and resolve disputes in the computation of compensation and other grievances; processing of payments; relocation site development where required; clearing of the project area after delivery of compensation; and reporting and closing of financial accountabilities.

Resettlement Action Plan Monitoring – determine RAP implementation compliance with agreed LGU policy on resettlement, and the RAP; and conduct post-implementation evaluation to measure changes in the living conditions of PAP.

Key Tools
The key tools used in resettlement planning includes: handbooks on resettlement action planning (WB, ADB, IFC) census, socioeconomic surveys, and detailed measurement surveys.

Census: The census is conducted to collect detailed information on affected households and properties in the project area. The information is collected for a full understanding of the project impacts in order to develop mitigation measures and resettlement plans for the affected persons. The objective of the census is to generate an inventory of all affected assets including land, crops, fruit and non-fruit trees, and structures/buildings and to compile a list of all affected persons/families taking into account the social and economic impacts of land acquisition and resettlement.

Socioeconomic Survey: The socioeconomic survey is conducted to get an overall picture and an awareness of the general characteristics of the affected area and the profile of affected households (AHs).

Detailed Measurement Survey (DMS). The detailed measurement survey is a detailed and precise inventory of affected assets such as, but not limited, to the following:

- Land (private, titled or non-titled) to be acquired for the project;
- Housing structure including dimensions, and construction materials used;
- Businesses and potential income losses;
• Trees and crops;
• Public infrastructures; and
• Other infrastructures (historical monuments, etc.)

Social Acceptability

Social acceptability is primarily gauged on willingness to pay and ability to pay for the goods or services provided. Surveys are conducted to estimate the levels of willingness and affordability. LGUs are advised to invest in these surveys as they provide the basis for tariff setting. Moreover by presenting evidence-based social acceptability indicators, opposition in public hearings for tariffs or taxes will be minimized.

Willingness to Pay (WTP)
Willingness to pay (WTP) is the maximum amount a person would be willing to pay, sacrifice or exchange in order to receive a good or service (such as clean water supply) or to avoid something (such as ill health because of unsafe water supply). WTP is the corollary of willingness to accept payment (WTA), which is the minimum amount an individual, is willing to receive to give up a good/service or to accept something undesirable (such as compensation due to involuntary resettlement).

Conceptually, determining the WTP level is constructed by starting with a high price; asking potential buyers how many items or how often they would be willing to buy at that price; decreasing the price and repeating the process. These iterations will eventually set the market demand curve.

Several methods have been developed to measure consumer willingness to pay. These methods can be differentiated whether they measure consumers’ hypothetical or actual willingness to pay and whether they measure consumer willingness to pay directly or indirectly.

Ability to Pay (ATP)
Ability to pay is a principle whereby individuals are charged according to their income. In cases where tariffs are to be set for a common good, such as water supply, the unit cost is usually the same irrespective of the income of the individual. However, where a user has a greater need for a resource, such as an industry needing larger amounts of water than a normal household, an incremental tariff can apply where say the first hundred units are charged at one rate, the next hundred units at a higher rate and so on. This provides the lower end users to avail themselves of the resource at an affordable rate and encourages higher end users not to waste the resource.

In the case of households on or below the poverty line, although they may appreciate the value of a resource (such as water, education or health), they simply lack the funds to pay for it. In this case the Annual Poverty Incidence Survey can provide a useful guide to what tariffs would be acceptable for this income group. For example, water districts are required by the regulator, the Local Water Utilities Administration (LWUA) to set lifeline tariffs (for consumption up to 10 cubic meters per connection per month) to be within 5% of the monthly income of the lowest income group in the community.
2.3.3 ECONOMIC ANALYSIS

To identify project costs and benefits, the ‘without’ and ‘with’ project situations should be compared to one another. There are four basic steps to analyzing the economic viability of a project.

- Identify the economic cost and benefits;
- Quantify the costs and benefits;
- Value the cost and benefits; and
- Compare the benefits with the costs.

In identifying project benefits and costs it is important to distinguish between non-incremental and incremental outputs and between non-incremental and incremental inputs since non-incremental and incremental effects are valued in different ways. Non-incremental outputs are outputs that substitute for existing products, e.g., an old public market is replaced with a new one. Incremental outputs are outputs that expand supply to meet new demand, e.g., growing demand for water supply as the population grows. Non-incremental inputs are project demands that are met from existing supplies. Incremental inputs are project demands that are met by an increase in total supply of input, such as, an increase in demand for water is met by new source development.

The basic steps in economic analysis of PPP projects are described in detail below.

1. Identification and quantification of benefits
   a. Direct productive project benefits - Producers’ surplus approach is used for directly productive projects whose benefits will be in the form of production that is sold.
   b. Indirect productive project benefits - Consumer surplus approach is used for indirectly produced projects where type and extent of expected benefits can be quantified through such variables as time and cost savings, increased assets, improved health, and so on, most of which have productive effects, as well welfare effects. A project may lower the price of the amount for all consumers. Unquantifiable benefits such as aesthetics, social interaction and so on should be stated alongside with an estimate of the number of beneficiaries.

2. Identification and quantification of costs
   a. System costs – total costs including all components in order to achieve the benefits and correspondingly, the total system benefits (for example, water extraction, treatment, transmission and distribution).
   b. Sunk costs – costs of facilities already in existence and should not be included in the project costs provided their use in the project involves no opportunity costs.
   c. Physical contingencies - represent the monetary value of additional real resources that may be required beyond the base cost to complete the project. (price contingency are not included in the economic costs)
   d. Transfer payments – includes taxes and subsidies (deduct taxes, include subsidies).
   e. Depletion premium – cost of using natural resources such as groundwater, oil, natural gas, or mineral deposits
   f. External costs – all relevant effects that may include significant costs such air pollution, climate change, peace and order, political risks etc.
3. Valuation of economic costs and benefits (general considerations)
   a. Economic cost and benefits should be values according to common criteria
   b. Economic cost and benefits should be valued in constant prices that is in terms of the price level prevailing in the year in which the project is appraised.
   c. Shadow pricing is applied to adjust market prices as to account for the effects of government intervention and market structure. Normally shadow price are applied to foreign exchange and unskilled labor.

4. Compare the benefits with the costs (evaluation considerations)
   a. Alternative options - At least two options must be considered: a ‘Do-Minimum’ option and a ‘Do-Something’ option.
   b. Project life of the alternative - The economic life of an alternative is the period of time during which it provides a positive benefit. The specific factors limiting the duration of economic life are:
      • The economic life or period over which a need for the asset(s) is anticipated which is traditionally 20 years in the Philippines. This is what shall be used in the economic analysis.
      • The physical life or period over which the asset(s) may be expected to last physically. Usually, physical life can be approximated to 50 years for salvage value estimates for new permanent constructions.
      • The technological life or period before obsolescence would dictate replacement of the existing (or prospective) asset(s).
   c. Social discount rate - No detailed work has yet been undertaken to assess an appropriate social discount rate. However, for the past several years NEDA has recommended that a social discounting rate of 15% be applied and this still prevails.
   d. Shadow pricing - Specific “shadow pricing” factors will be applied to the market prices of labor and other local resource elements and to the foreign exchange elements of project costs and benefits. Again no extensive work has been undertaken in this area. However, NEDA has also recommended a shadow-pricing factor of 1.2 for foreign cost component and 0.60 for skilled labor, which is already being used in other feasibility studies.
   e. Economic Viability
      • Cost–benefit analysis (CBA)- CBA is a systematic evaluation of the desirability of a given intervention, which enables the decision makers to choose an option that maximizes the benefits minus cost. All future benefits and costs are then converted to their present value to make comparisons using a discount rate. The discount rates used in the calculation is 10%, 12% and 15%. Relevant economic indicators will be determined and considered in the recommendation for project implementation. These will include the following:
        ✓ EIRR (economic internal rate of return)
        ✓ NPV (net present value)
        ✓ B/C (benefit/cost ratio)
        ✓ FYBC (first year benefit-cost ratio)
        ✓ NPV-cost ratio
        ✓ Optimum timing
        ✤ Detailed economic analysis will be performed for each individual project component to determine their optimum timing of execution. A project, which is considered viable based
on its internal rate of return over 30 years, does not necessarily imply that immediate construction is feasible because slow-maturing benefits may result to lower FYBC. Feasibility assessment will need to be undertaken to determine which component of the project will be postponed for construction until such time that the first year return will be acceptable.

- Evaluation of staged construction- The feasibility assessment analysis to be undertaken will include assessment of staged construction possibilities within a reasonable technical range and considering logical alternatives. The benchmark analysis to be undertaken will be used as a guideline in selecting staged construction options.

- Cost-effectiveness analysis (CEA)- Cost effectiveness analysis (CEA) is a type of economic evaluation that measures the maximum population served by the project where project benefits are not easily measured in monetary terms such as access. It compares the relative costs and outcomes (effects instead of outputs) of the project. The key performance indicator of CEA, which is used as the index in ranking projects in the pipeline, is cost-effectiveness ratio:

\[
\text{Cost-effectiveness ratio} = \frac{\text{Cost of Project}}{\text{Population served}}
\]

- Sensitivity Analysis- Project alternatives will be subjected to general sensitivity and risk analyses to determine the impact of variations in costs and benefits on the economic return on project investment and/or determine the robustness of the investment. The variances to be used are:

  - 10% increase in cost and 10% decrease in benefits
  - 10% decrease in cost and 10% increase in benefits
  - 20% increase in cost and 20% decrease in benefits
  - 20% decrease in cost and 20% increase in benefits

f. Distribution and Poverty Impact Analysis
Distribution analysis will be undertaken following the ADB Handbook for Integrating Poverty Impact in Economic Analysis of Projects. Benefits are distributed among various categories of stakeholders based on the major indicator Poverty impact ratio (PIR). PIR is defined as a simple ratio that shows whether the project will improve, maintain or worsen the income gap and is measured by the formula:

\[
\text{PIR} = \frac{\text{Benefits to the poor}}{\text{Total economic benefits}}
\]
2.3.4 FINANCIAL ANALYSIS

Every potential PPP project, and particularly a multiple-user project, must be evaluated to determine its financial viability. Unless there is a reasonable degree of certainty that a PPP project is financially sustainable, private investors will not be prepared to bid for the rights to develop the project. Investors who inadvertently invest in a non-viable project would soon run into financial difficulties, either in the construction phase of the project or during its operations phase. Consequences for the LGU, of promoting a non-financially viable PPP project include (1) failure to attract any credible bids, (2) failure to achieve financial closure disruption of service to the public, and (3) the possibility of the LGU having to intervene and provide financial support to the project.

For a PPP project to succeed it is essential that the financial evaluation is undertaken properly. When considering an infrastructure project for PPP implementation, the relevant LGU needs to adopt a private sector perspective, and assess the project as a business, rather than as a public service. Only if it is viable as a business will the project be suitable for PPP. The essential purpose of a business is to generate profit; otherwise it will not attract investment.

As financial analysis is so fundamental, the financial prospects of alternative facilities must be considered early in the process of selection of potential PPP projects. In practice, financial analysis will go through several iterations, with the depth of supporting studies growing as the project moves from initial screening through due diligence to the tendering and subsequent contract negotiation phases.

Financial analysis will provide answers to three important questions:

a. Is the project as a business proposition financially viable? That is, are the revenues of the project capable of covering all costs, debt, and generating a reasonable profit to the investors? Only if the answer to this question is definitely “Yes” should the project move to the tendering phase;

b. Is the proposed financing structure robust? Innovative financing techniques are unable to transform the fundamental economics of a business, but it is possible that a poor financial structure can compromise a viable business. In practice the dividing line between financing techniques and financial structure is fine. Oftentimes, PPP projects that encounter financial difficulties are those where the underlying economics were not sound, or have been based on overly optimistic assumptions, and a risky financial structure has been put in place in the hope that this would compensate for the underlying business risks;

c. Is the LGU getting a fair price for the transaction? The profit to the private sector should be reasonable, but it should not be excessive. Any surplus value should be shared between the LGU and consumers, rather than being all captured by the private sector.
The Financial Model

The financial model is the central tool used throughout the financial evaluation. The model is developed using a computer spreadsheet (usually Microsoft Excel). All the financial information relevant to the project is entered into the spreadsheet. Formulas produce financial statements and calculate key financial performance measures. The model can also automatically generate charts and reports for presentation of the model’s results.

Financial modelling requires skill and care. The financial analyst needs to be highly competent in financial valuation theory and the structure of financial statements as well as skilled in Excel. The financial analyst will work with other experts, such as engineers and transport economists, to develop the inputs for the model. The financial analyst will maintain documentation for the model and will ensure that all financial reports are properly supported by valid model runs. The LGU should designate the terms of reference for financial modelling. This capacity is developed through training and experience gained from actual PPP projects.

Financial modelling takes place at all stages of the PPP preparation process. A simple model is built when the project is first considered for PPP delivery. Progressive refinement takes place as the project moves towards the transaction phase. The most important inputs to the model take place during the project feasibility and transaction packaging phases, but the model will also be used during contract negotiations, and also subsequently, as part of the contract monitoring process.

For better illustration of the financial modelling concept, the discussion below will focus on a water supply project example. It assumes that the user is competent in basic spreadsheet skills. For more information on spreadsheets, the reader should consult one of the many available reference works, such as Microsoft Excel Bible. The Help function in Excel is also a valuable reference tool.

A financial model suitable for the financial evaluation of water supply projects can have as many as ten linked worksheets:

- a. **Summary** worksheet shows key assumptions of the model, and presenting key performance measures. Most inputs to the model are made on the summary worksheet.
- b. **Invest 1** worksheet shows the capital investment required for the project, and associated maintenance expense;
- c. **Invest 2** worksheet is an expansion of Invest 1, showing capital expenditure and maintenance costs for each year of the concession;
- d. **Demand revenue** worksheet calculates the revenue for the project for each year of the concession. Revenue is built up from forecasts of traffic volume multiplied by the tariff;
- e. **Costs** worksheet shows the operations and maintenance costs for each year of the concession, based on data from invest 2 and demand revenue worksheets.
- f. **Depreciation** worksheet calculates asset depreciation for each year of the concession.
- g. **Debt** worksheet outlines the raising and repayment of the project loans. Financial structure performance measures are shown on this worksheet, summarizing the key operating parameters of the project throughout the concession period, i.e., the debt service cover ratio (ADSCR) and the loan life debt service cover ratio (DSCR);
h. **Profit and loss** worksheet presents the profit and loss statement for the project for each year of the concession, drawing on data from demand revenue, costs, depreciation, and debt worksheets;

i. **Balance sheet** worksheet presents the balance sheet for the project for each year of the concession;

j. **Cash flow** worksheet summarises the cash flow statement for the project for each year of the concession. The cash flow statement is the basis for the calculation of NPV and IRR.

**The Inputs**

A typical PPP project will consist of an initial construction phase followed by an extended operations phase. The financial model must capture the cash flows from both phases to assess whether the future revenue from the proposed project can justify the initial investment of capital.

The following items, shown in bold print below, are key inputs to water supply PPP financial models:

- **Initial project costs.** These include expenses associated with surveys, design, procurement, engineering, construction, land, etc., by the year incurred. Note that these are costs incurred by the private investor. If, for example, the land is provided at no charge by the LGU, it is recorded as a zero cash outflow in the model. Most projects may be developed in different ways, so it is important to be clear on exactly what assets are obtained with the initial capital expenditure. Subsequent revenues and costs must be consistent with the asset base that has been installed. For example, if a water supply project calls for the initial construction of a 10,000 cubic meter per day water treatment plant, with subsequent expansion to 15,000 cubic meters per day, the financial model should not show costs or revenue from the extra capacity until the relevant capital expenditure has been included. Project costs are valued in base year prices (base year refers to the time the analysis is undertaken) but price contingency will be added for each construction year, with revenues and costs inflated using an appropriate index.

- **Demand forecasts.** Demand forecasts used in the financial model should be the product of a thorough user survey. The study should address such issues as willingness to pay and cost of alternative water supply source. For example, households with existing deep wells will likely not choose to connect to the water distribution network.

- **Tariff path.** Tariffs are a key determinant of project revenue. Forecasts for the latter should be made in conjunction with the preparation of estimated usage, so that the two are consistent. That is, the forecasted use of the facility should be based on the estimated demand for the service at the forecasted tariff, thereby taking demand elasticity into account.
Although water supply tariffs are subject to regulation, this does not imply that current tariffs will apply in the future under PPP service delivery. The tariff path derived should be sufficient to achieve full cost recovery within the concession period. Total revenue is then derived from the usage expected at that tariff level. At full cost recovery, this product should cover depreciation of (initial and deferred) capital investment as permitted by law, operation and maintenance costs, debt service, plus a reasonable investment return to private investors. Where current tariffs are below this level, a tariff adjustment path should be set so that full cost recovery is achieved within a reasonable period of time. If the market is unable or unwilling to sustain the project at this level, the project will not be suitable for PPP implementation unless the LGU is prepared to provide direct support in the form of a capital investment grant or an operating subsidy.

- **Operating and maintenance costs (O&M).** O&M expenditures are outflows of cash needed to operate the service and maintain the assets over the term of the concession. Maintenance costs should include both routine and periodic (preventive) maintenance expenses. Future projections will be made from base year estimates, inflated by an appropriate index related to underlying cost drivers. Cost drivers should be identified for individual cost items rather than applying a general inflation index to all costs. For example chemical costs for water treatment would be related to water volume produced, and a rise in consumption should be reflected by a rise in the chemical costs. Costs can be calculated by building up direct, indirect and overhead costs based on historical data or, more usually, as a percentage of project costs or revenue.

- **Depreciation.** This is the allocation of asset cost over the life of the assets. Depreciation is not a cash item, but is an allowable tax deduction. Depreciation should be calculated based on national regulations.

- **Debt service arrangements and costs.** These arrangements include a number of items such as the types and amounts of debt (if originating from more than one lender), interest rates, associated fees payable to lenders and guarantors. Also included are the interest and principal payments, taking repayment and grace periods into account.

- **Tax rates.** The national corporate rates are used, including any incentives applicable to PPP projects.

- **Currencies.** Although not common for LGU projects, the financial model should be able to deal with foreign and local currencies. A foreign investor will assess the USD return in dividends on a PPP project, but a LGU investor will look for a peso return. Normally investors do not want to bear currency risks.

- **Inflation.** The values entered into the model for future costs and revenues include inflation. That is, they are the actual nominal amounts, expressed in pesos. The model therefore needs to include estimates of domestic inflation rates. Targeted indices, closely aligned with the project’s cost structure should be used for this purpose, rather than a broad-based index such as the consumer price index (CPI).
All projects suffer from forecasting difficulties and this should be borne in mind at both the modelling stage and risk assessment stage where inaccuracies in demand forecasts may substantially outweigh uncertainties in other model inputs/assumptions.

**Financial Performance Measures**

There are two key measures of financial performance – NPV and IRR. Each measure can be calculated from the perspective of the overall project and the equity holder. The private investor will assess the potential returns to equity, and the project’s ability to support a financial structure that provides an acceptable balance of financial risk and reward.

The financial model calculates the net present value (NPV) and internal rate of return (IRR) of the project by expressing all future cash flows related to the project as present values. This takes account the time value of money, or the fact that it is more valuable to have, say, 1 million pesos today rather than the same amount at the end of one year. The NPV calculation applies a discount rate to the future cash flows to convert them to present values. The IRR, on the other hand, calculates the return on investment of the project.

These two concepts are discussed below.

**Net present value.** The net present value (NPV) of a project is defined as the sum of its net cash flows (revenues from all sources net of all selected expenses) over time at some defined discount factor.

This is a very concise performance indicator for an investment project. It is the total value of net cash flows generated by the investment over time, discounted by a predetermined discount factor. It is important to note that the net cash flows realized over the first years of a project (i.e., during construction and, possibly, the early years of operation) are usually negative and become positive after sometime. The use of a discount factor means that the negative values in the early years will be given more weight than the positive ones in the latter years. Hence, the time horizon is crucial for the determination of the NPV. Likewise, the choice of the discount factor is also a key variable in the calculation of the NPV. The larger the discount factor, the smaller the NPV.

The NPV, as an indicator, is a very simple but precise evaluation criterion for an investment. \( \text{NPV} > 0 \) means that the project, at the predetermined discount rate, generates a net benefit because the sum of the weighted net cash flows realized during the construction and operation period of a project is positive and is generally desirable. In other words, NPV can be a good measure of the project benefit in monetary terms with the use of an appropriate discount rate. Projects can also be prioritized on the basis of their ranking in terms of their NPVs either in absolute terms (i.e., on the basis of NPV to be realized) or in relative terms (i.e., on the basis of the relationship between NPV and the level of investment).

The internal rate of return (IRR) of a particular project is defined as the discount rate at which the net present value of the costs equals the net present value of the benefits.

Most commonly used data management softwares automatically calculate the value of these indicators. The analyst mainly uses the financial internal rate of return in order to determine the future performance of an investment. If \( i \) is
the approximate cost of equity in the marketplace, a project is viable if financial IRR > i. This means that a project is financially viable if the net sum of its annual revenues and expenses over its construction and operating period results in a positive NPV, when discounted at the interest rate i, where i represents the yield normally required for a similar project, at a given time.

There are different points of view regarding the definition of the discount rate to be considered in the financial analysis of investment projects but it may be generally defined as the opportunity cost of capital. Opportunity cost means that when we use capital in one project, we relinquish the right to earn a return from this capital on another project. Thus, we have an implicit cost when we sink capital in an investment project resulting in the loss of income from an alternative project. An investor is generally knowledgeable about the opportunity cost of capital and will not invest in any undertaking unless it can generate a return at least similar to the opportunity cost of capital. Indeed, the professional investor will search for investments that generate the maximum IRR.

The most commonly used discount rate i - the opportunity cost of equity, for a project that is similar to that being developed – is applied to the net financial cash flows of a project, including all its gross inflows (revenues from all sources) net of all outflows (operating expenses, maintenance, interest payments and principal repayments). A larger financial NPV is more desirable than a smaller NPV and projects can be generally prioritized in this manner.

There are two different discount rates used in the financial NPV calculation. When the return to the project investor is being calculated, the appropriate discount rate is i, the opportunity cost of equity. On the other hand, when the return on the entire project is being considered, including the portion of the project revenues that flow to debt holders, the appropriate discount rate is the weighted average cost of capital (WACC). It is important to understand that i and WACC are applied to different cash flows, and result in different values that are not comparable. The overall project value, calculated using WACC, is equal to the value received by debt holders plus the value of the equity calculated, using i.

How then is i determined? The simplest way is to ask knowledgeable institutions, such as commercial banks or the Public Private Partnership (PPP) Center on the current equity return of certain projects, such as water supply, commercial buildings, etc.

WACC, on the other hand and as its name implies, is a weighted average of the cost of equity capital and the cost of debt. The weights are determined by the proportions of debt and equity in the capital structure of the project company. The formula for the calculation of WACC is as follows:

\[ WACC = i \times \left( \frac{E}{D + E} \right) + Cd \times (1 - T) \times \left( \frac{D}{D + E} \right) \]

Where: 
Cd is the cost of debt
E is the amount of equity contributed
D is the amount of debt raised
T is the corporate tax rate
As mentioned earlier, WACC is the discount rate used to calculate the NPV of the project, as WACC represents the cost of the total financing package used to fund the project; while i is the discount rate used to calculate the NPV to equity.

WACC is higher for the 60/40 debt/equity ratio because that capital structure uses a higher percentage of expensive equity. However, the additional cost is somewhat offset by the lower financial risk (loan interest rate volatility) of the 60/40 capital structure.

We note that the methodology used to arrive at a financial discount rate differs from that used to calculate economic viability. To test for economic viability, one needs to use the 15% social discount rate prescribed by NEDA. Economic analysis (or social cost benefit analysis SCBA), applies the 15% predetermined discount rate to the project’s gross economic benefits over the construction and operating period net of its financial costs, to determine the degree of desirability of the project. A project with a larger economic net present value (ENPV) is more desirable, from an economic perspective, than one with a smaller ENPV. As was true with financial indicators, projects can also be prioritized from the perspective of their economic desirability, in absolute as well as relative terms through the determination of their ENPVs.

Either NPV or IRR could be used as evaluation criteria for ranking projects. Nevertheless, it is useful to always consider NPV and IRR together to avoid confusion.

Risk and investor’s required return are directly related in the sense that the lower the risk, the lower is the private sector’s target return on a project. Therefore, in assessing a ‘fair’ return to the private sector, it is crucial that government understand this risk/profit relationship in general and in particular as it relates the subject project. The more the risks of a project can be allocated to the best party able to bear and mitigate them the lower will be the private sector’s demands for a specific return and the cheaper will be the cost of the services provided under the project.

The LGU may request the PPP Center is to ensure that the hurdle rate for a specific project is the correct one and is not excessive. It is important to be clear, however, that in trying to avoid excessive returns, it is not itself taking on unreasonable risks, nor negating legitimate commercial interest in the project. The LGU must therefore be sufficiently flexible and agree to higher returns if the project or other relevant circumstances demand. This balance should be appreciated as a delicate issue on which adequate consideration should be included in the pre-feasibility study.

The payback period. The payback period is a measure frequently calculated to assess the financial performance of an investment. Payback period measures the time that the project needs to operate until all of the initial investment costs have been recovered out of project cash flows. It is thus an indirect measure of risk - a shorter payback period is preferred to a longer one. There is no absolute standard as to what is an acceptable payback period, but clearly a project that has a payback period of less than 10 years is preferable, from an investor’s perspective, to one which has a payback period greater than that. Microsoft excel provides predefined formulas to calculate NPV and IRR, but payback period has to be manually calculated as it is the reciprocal of IRR.
**Financial Model Outputs**

Once the worksheets for the financial model are completely and correctly filled in, the model automatically produces the financial statements for the project, viz., profit and loss statement, balance sheet and cash flow statement.

Financial performance and position are shown for each year of the concession. Key performance indicators are also reported, as well as the overall project assessment measures, IRR and NPV. The output from the model should be evaluated critically to ensure that the results are both accurate and reasonable. The balance sheet should be examined closely to ensure that it balances for each year, and that there is no unusual build-up of asset or liability balances. The profit and loss statement (P&L Statement) should be reviewed carefully to ensure that increases in revenue and cost appear reasonable, and profitability makes sense in terms of the business fundamentals. The operating margin ratio measures the fundamental ability of the project to generate profits. Movement in this ratio should be studied for the entire concession period, as a test on the reasonableness of model input assumptions. Any tendency for profitability to grow each year should be questioned to ensure there is an underlying business reason why this should be so.

For example, rising water consumption and largely fixed costs will result in increasing profit margins. However, such a result could also be achieved by assuming that revenue rises by 7% per year while costs increase at 5% per year, thereby resulting in constantly rising profitability. Using the financial model output, the project should be assessed to check that the financial situation is satisfactory, in terms of both financial performance and financial structure.

**Financial Structure**

Financial structure refers to the way that a PPP project is financed, using a mix of equity, debt, and government assistance. Although there is continual innovation in financing techniques, there are some constants in assessing the appropriateness of the financial structure of a project. Changes to financial structure will not transform an unprofitable business into a profitable one, but it is possible for a poor financial structure to cause problems for a business that, otherwise, would have been sound.

Sources of finance for a PPP project include the following:

- Equity from the project promoters
- Equity from other investors (passive private shareholders)
- Government grants, equity, or other support
- Loan capital derived from:
  - domestic banks
  - municipal bonds
  - development agencies
PPPs often have fairly complicated financial structures. As a general rule, the following principles help to minimize financial uncertainty:

- Maximize long term debt
- Maximize fixed rate debt
- Minimize refinancing risk

A project will be more attractive to potential bidders if it is structured such that barriers to accessing financing sources are minimized. For example, lenders will often want “step-in” rights to allow them to take over the operation of the facility if the project company defaults. As bidders will often finalize their financing arrangements only after the bidding process, government is often unaware of the full extent of lender requirements until concession terms have been set. It is difficult to avoid this situation entirely. It is possible to insist that all bidders lock in their financing plan prior to submission of their bids, but this stipulation risks deterring bidders from preparing a bid, particularly when the project is new or risky. Preliminary discussions with lenders as part of a market sounding process before tendering, provides valuable information on how to structure the transaction.

The annual debt service ratio (ADSCR) measures the expected ability of the project to meet its debt service obligations each year. This is calculated from the annual cash flow forecast of the project’s financial model. Because the future cash flows are not known with certainty, lenders will want to see some cash flow safety margin above the minimum required to service debt. It is common for lenders to insist on a minimum ADSCR of around 1.5 for infrastructure projects. This minimum ratio must be met for each year of the loan, and this is often a problem during the early years of a project. Any shortfall must be met by a combination of other, more expensive debt financing or equity injections.

Lenders will closely examine the assumptions underlying the financial projections, and will tend to be conservative in what they will accept. Financial analysts should be aware that some best case scenarios may rely on optimistic financing assumptions that lenders might not accept. If the cover ratios are not met, the company can encounter financial difficulties.
The financial structure of the project company is reported each year in the company’s balance sheet. The debt and equity ratios measure the proportion of debt (equity) in the company’s capital structure. The ratios are calculated as follows:

\[
\text{Debt ratio} = \frac{D}{D + E} \\
\text{Equity ratio} = \frac{E}{D + E}
\]

Where,
\[
D = \text{the total amount of debt on the Balance Sheet, and} \\
E = \text{the total equity}
\]

PPP projects normally use a large amount of debt financing, with equity forming only 25% to 35% of the capital structure. The use of debt financing provides a positive leverage effect that magnifies project returns. When return to equity is graphed against pre-tax project return for three different capital structures - zero debt, 50% debt and 75% debt – it can be shown that the high debt structure produces the highest returns to equity, as long as project returns are above a critical point. For project returns below this point, high leverage will produce lower returns to equity. Even if the expected project return is above the critical point, the returns to equity are more risky under a high debt structure.

The financial model calculates the ADSCR and the debt/equity ratios. For a project with poor early profitability, these ratios may indicate that additional equity is required. If so the model should be re-run with the additional equity, and this process should be repeated until the financing ratios are acceptable. The critical point occurs at the point where pre-tax project return equals the cost of debt.

**Scenarios and Sensitivities**

The output from a financial model shows the results of employing a particular set of assumptions regarding a project. As the financial model is used to decide on the best structure for the transaction, the modeller will have to consider a number of different scenarios. For a water supply PPP project, one scenario might involve using the current tariff schedule, and an alternative scenario might use full cost recovery tariffs. Other scenarios might use alternatives regarding the physical configuration of the facilities, alternative asset replacement and maintenance programs, or length of concession period.

Microsoft excel provides tools for creating various scenarios (base case, full cost tariffs, etc) and for displaying the results in pivot tables. Scenarios are used to simulate the project under alternative settings. Each scenario will be based on forecasts of future events that are uncertain and beyond anyone’s control, such as future traffic volumes. The model uses the most likely values for forecast variables, but it is almost certain that actual results will vary from the forecast. The effect of this variance is modelled by sensitivity analysis, in which key variables are allowed to move by, say, plus and minus 10% from forecast, and the impact on IRR/NPV is calculated. It is also informative to turn this calculation around, and calculate the “switching value” for each variable. The switching value is the percentage change
in a variable that would be required to turn the project NPV negative. Switching values are particularly informative for projects that are only marginally financially viable.

For a typical PPP project the following sensitivities would be run:

- 20% reduction in consumption or patronage volumes
- 20% increase in consumption or patronage volumes
- 20% increase in cost
- Increase in Discount rate

As the number of scenarios and sensitivities grows, it becomes particularly important to maintain strict discipline in the use of the model. To exercise control over the model, one should use clear unambiguous file names and scenario names as well as maintain the practice of having only one input worksheet with all input fields clearly identified. If a scenario is presented in a report, the backup documentation for the report should contain the full file name and a printout of the input and output pages (the “Summary” page in the specimen model).

**Conclusions and Presentation of Results**

The conclusions of the financial appraisal will be based on many runs of the financial model. Returns to project, equity, and the LGU, if applicable, under different scenarios, with sensitivities to key variables, all need to be taken into account. The financial appraisal report must state whether the project is capable of generating adequate returns to the private investor, and whether the project cash flows are capable of servicing the necessary debt.

When financial results are marginal, the key to financing infrastructure will be credit enhancement, i.e., taking measures to improve the risk and return profile of a project (provided that it is economically viable) to attract financing so that it will proceed to financial closure.

The term “credit enhancement” may have a variety of meanings. In principle, anything that improves a project’s bankability may be considered credit enhancement. In broad terms, this may include (1) a sound, credible, transparent cooperation program; and (2) project identification and structuring which understands and addresses the concerns of the private sector.

Usually, the term includes one or more limited guarantees, which seek to minimize the typical risks found in any infrastructure venture. They include measures agreed upon by the sponsors and developers (the equity participants) that will improve the chances for the recovery of loans extended by the debt participants, with some of these measures directly involving the host LGU. It is important, however, for the LGU to be involved, to be aware of, and conversant with these techniques as a part of their oversight and due diligence responsibilities in procuring and monitoring the desired infrastructure services.

Examples of government support include a range of instruments such as a take or pay agreement, a revenue guarantee, or tax incentives that the LGU can provide to improve the predictability of project cash flows and reduce the levels of
risk, as perceived and analyzed by the PPP concessionaire, and especially its lenders.
In practice, most public-private partnerships require both public and private investment. For example an LGU may opt to build the distribution network of a water supply project and let the private partner undertake water source development, treatment and transmission. Or more commonly the LGU pays for the right of way and the rest is paid by the private partner. A big part of getting the project structure right is setting the best mix of public and private investment. The financial model will have to be run under scenarios that vary the amount of government input. The conclusions to the financial appraisal will present options to government. For each scenario, assuming a certain amount of credit enhancement support is provided, it should be clear if the project is financially feasible under a reasonable set of assumptions. The decision to adopt a particular structure and to proceed to tendering will depend on many considerations, the financial appraisal being one of them.

2.4 TYPES OF LGU SUPPORT

This section describes the alternatives available for the provision of LGU support for PPP projects, particularly multiple user projects. The section is divided into three parts, respectively:

1. Why the LGU should consider providing credit enhancement support to privately-owned infrastructure facilities;
2. Policy for government support; and
3. Types of support that can be provided by the LGU.

By providing support, the LGU makes the PPP project less risky and thereby improves its financial viability. For risks outside the control of the project, a public sector guarantee underwriting that risk shifts it from the private partner back to government. The provision of government support thus forms a part of the overall risk management of the project, although the provision of government support is influenced by other factors such as whether the support can fit into the budget.

2.4.1 POLICY FOR GOVERNMENT SUPPORT

The BOT Law and the Local Government Code of the Philippines allow the provision of fiscal support and financial incentives to PPP projects. This task of approving such support is allocated to the local sanggunian.

Key principles to incorporate in any PPP policy are the following:

1. Government support shall be given to PPP projects that are economically feasible and viable commercial propositions;
2. Government support should be minimized with great attention given to evaluating the risk, estimating its true cost to the national budget, and setting up a management system to monitor the risk; and
3. Provision of government support should be made in a transparent manner.
Principle (1) imposes a limit on the amount of support. Economic feasibility implies that the amount of support may not exceed the economic benefits to be derived from the project, after taking into account the cost of the support. Principle (2) underscores the fact that LGU funds are scarce and should be used efficiently. This means that support will be provided to the most appropriate projects and within each infrastructure facility provided in the most efficient fashion, both as regards the overall amount of support provided, and the mix of support instruments chosen. Bid procedures may be designed to minimize a particular form of support. This is the case, for example, when a public tender requires the bidder to identify the lowest tariff subsidy that is acceptable to it.

Public tenders for PPP projects are sometimes structured so that the amount of direct subsidy is the key bidding criteria in the financial proposals received from bidders. This is a useful way of minimizing a particular subsidy, but it is not sufficient to ensure that the overall package of support is structured so as to provide sufficient incentive to the private sector at the minimum total cost to the LGU.

Principle (3) provides that government support shall be provided by means of a transparent process. It should be noted that any PPP project requiring support must be subject to competitive tender and, therefore, sole source uncontested contracts should not be eligible for government support. Where financial support is required, a clear description of the nature of that support is required, and the amount of required support becomes one of the project ranking criteria.

### 2.4.2 OPTIONS FOR EXTENDING GOVERNMENT SUPPORT

The availability of government support, either direct or indirect, is among the most important elements in the financial structuring of a PPP project. The following paragraphs describe forms of government support authorized under the Philippine legal framework and discuss their potential implications.

The following are typical examples of direct and indirect LGU contingent support:

1. **Equity participation.** Equity participation may help achieve a more favorable ratio between equity and debt by supplementing the equity provided by the project sponsors, particularly where other sources of equity capital, such as an investment fund, cannot be tapped by the project company. Equity investment by the LGU may also be useful to satisfy legal requirements concerning the composition of locally established companies.

2. **Output-based subsidies.** The LGU may provide a project company with a defined cash subsidy in return for some targeted service output. When cash subsidies are tied in this way, they are referred to as output-based subsidies. Essentially, the project company would be required by formal agreement to provide service to a certain segment of the population, under a series of definable annual outputs, at a specified tariff. This type of subsidy is not to be confused with untargeted investment and operating subsidies. For example, a project company for a water supply project is asked to serve a rural barangay that has no capacity to fully pay for the service. The LGU signs an agreement to pay a rebate to the project company after it has installed connections to the agreed number of households.
3. **Investment and operating subsidies.** Such subsidies arise when government makes a contribution to a project’s construction or operating costs without reasonably expecting to receive a return commensurate with the size of the contribution and risk taken. Investment subsidies are used to increase the project’s financial internal rate of return and usually take the form of upfront grants. Operating subsidies, in contrast, could be year-on-year support designed to create revenue for a particular project, augment its revenue, or ensure a revenue stream:
   a. Revenue deficiency guarantees ensure that the project has a minimum level of revenue, comprised of the revenues generated by the project and the operating subsidies made available through government. The total of these two revenue streams is usually enough to cover debt service and a negotiated profit element. Although this is beneficial for the project, revenue deficiency guarantees create problems for government as the level of subsidies required each year over the project life is not predictable;
   b. Design-build-lease (DBL) arrangements, as referred to in some countries, have a different structure. In this case government designs and builds the project at its own expense. Upon commissioning, the project is tendered and concession is given to the private sector company willing to make the highest lease payments to government in return for the rights to operate and maintain the project. This structure is used for projects that have high levels of market risk.
   c. Annuities constitute another method of tendering out projects. The LGU declares it is willing to award a concession to build and operate, for example, a solid waste landfill project to the bidder asking for the lowest annuity payments, measured on a discounted cash flow basis. This structure is also used for projects that have high levels of market risk.

4. **Guarantees of performance by the LGU.** The most common situations in which such guarantees are used are for take or pay agreements, where the LGU may be the sole buyer of the service.

5. **Protection from competition.** An additional form of support may consist of assurances that no competing infrastructure project will be developed for a certain period by the LGU or by another concessionaire. Assurances of this sort serve as a guarantee that the exclusivity rights that may be granted to the concessionaire will not be nullified during the life of the project.

6. **Ancillary revenue sources.** One additional form of support to the execution of PPP projects may be to allow the project company to diversify its investment through additional concessions for the provision of ancillary services or the exploitation of other activities. In some cases, alternative sources of revenue may also be used as a subsidy to the project company for the purpose of pursuing a policy of low or controlled prices for the main service. Provided that the ancillary activities are sufficiently profitable, they may enhance the financial viability of a project.

2.4.3 **RISK MITIGATION THROUGH THIRD-PARTY GUARANTEE**

The LGU Guarantee Corporation (LGUGC) is a private risk guarantor in the Philippines that can be accessed by LGUs for PPP undertakings. To date however, it has focused its cover on risk of default of debt by the LGU or off take agreements. LGUGC charges a guarantee fee and requires a pledge on the internal revenue allotment as security. A similar agency, although public in nature is the Philippine Export Import Guarantee Corporation.
2.5 PROJECT RESTRUCTURING

In the previous section, we concluded that financial modelling is the tool of choice in determining if a project is financially viable. But what happens if the computer runs indicate that the project is not viable? This section deals with this particular issue.

It should not automatically be assumed that fiscal support is required if the initial computer runs indicate that the project is non-viable. The LGU should restructure the project. Restructuring entails several steps, the first of which is to determine whether the tariff level has been set appropriately. Subsequent steps include assessing whether it is possible to create a viable business proposition by bundling or unbundling the project, reducing or deferring the capital investment, or extending the term of the concession.

2.5.1 PROJECT RESTRUCTURING OPTIONS

Use of Cost-Based Tariffs

It is not unusual for tariffs of LGU services to be set at a level below that required for achieving full cost recovery for social or political considerations. However, low tariffs are a major cause of poor financial viability. Wherever possible, tariffs should reflect full recovery of costs. LGUs may gradually increase the tariffs, but any transition period in which tariffs adjust to full cost levels should be as short as is practical.

Bundling

Bundling refers to the practice of enhancing the financial viability of the proposed project by including additional, more profitable, business elements, e.g.:

- A public market can be bundled with a commercial center that will generate higher rental income; and
- A government administrative center can occupy a portion of a bigger building open for leases to private commercial establishments.

Unbundling

Unbundling is the reverse of bundling. In this case, non-viable business elements are split off from the concession to improve the viability of the remaining elements. For example rather than require a water supply BOT including source development and treatment, transmission and distribution, the source development can be unbundled from the distribution business. Hence from the point of view of the private developer the project is now structured as a single-user rather than a multiple user project, which can be supported by a guaranteed off-take agreement with the LGU. Or in the case of solid waste management projects, the private sector can take care of the landfill construction and operation, and will charge the LGU a tipping fee for disposal. The LGU can take care of garbage collection and will in turn charge fees to households.
Reducing or Deferring Capital Investment

Infrastructure projects are characterised by large initial capital outlays, followed by an extended operations phase, during which the original capital investment cost is recouped. Because the capital investment is made at the beginning of the project, any savings that can be made in investment cost can have a dramatic effect on financial viability. If a project is not financially viable the specifications for the project should be examined for possible savings or investment deferrals.

Extending the Term of the Concession

Extending the term of the concession can sometimes improve the financial performance of a marginal project, provided it does not exceed 50 years, which is the maximum agreement period under the BOT Law. However given the strong effect of high discount rates over 20 years or more, the difference to present value is usually small.

Once it has been identified that bundling/unbundling will not suffice, and that a project will definitely require fiscal support, it is still essential (1) to determine whether that support is consistent with the LGU objectives, and (2) to consider the best means of providing that support. It is also important to identify the types of support that the LGU is prepared to consider and incorporate this information into the tender documents, so that bidders have better information when they prepare their bids. Early identification of support mechanisms by the LGU demonstrates to bidders that it has taken care to design a well thought out transaction process, thereby improving investors’ confidence and willingness to bid. The ideal package of fiscal support must be well targeted, transparent, share risk most efficiently and at least cost to government as well as provide positive incentives to the bidders.

2.5.2 KEY STEPS TO IDENTIFYING SUPPORT OPTIONS

When considering the need for fiscal support, it is important to gain a thorough understanding of the project’s financial characteristics. This implies that an accurate and flexible financial model has been built, and that it is based on accurate information. The following discussion sets out some review steps regarding the financial characteristics of a project, as a guide to selecting appropriate support instruments.

If the business is likely to cover all of its cash outflows within 10 years, i.e., operating costs including interest, principal and a yield to the investor of at least 5-10% annually, then the cash flow problem, if it exists, is only short term and will disappear once patronage builds or tariffs ramp up to full cost recovery levels, or both. Very likely, no support will be required.

If the business is likely to cover all its cash outflows within 10-years, i.e., operating costs including interest but has a yield to investor of 5% p.a., or less, then the following types of support may be considered: (1) minimum revenue guarantees in the early years, (2) patronage guarantees for the early years, and (3) subsidies for low income users.

If the business does not generate operating profits beyond the tenth year, and does not leave some surplus to contribute to capital costs, then the project is unlikely to be viable as currently structured. Bundling, unbundling, or full or partial deferral or traditional procurement may be considered.
If, however, the business does generate operating profits beyond the tenth year leaving some surplus to contribute to capital costs, then an investment grant can bring down cost and hype up return on investment. Calculation of the fixed investment grant needed to make a project viable can be done through model simulation. Calculate of the expected value of a variable operations subsidy (minimum revenue guarantee, public support, traffic guarantee, etc.) given to a PPP project from LGU can also be done through model simulation.

If the technical risks to the project are not significant and unlikely to deter investors or cause them to propose an excessively high internal rate of return, no further action is necessary. However, if the technical risks are significant and will most likely deter investor or cause them to propose an excessively high internal rate of return, the use of partial guarantees of construction may be considered.

**Revenue Guarantees**

Most large water supply PPP projects are characterised by an initial construction phase followed by an extended operating phase. Typically, usage of an infrastructure facility starts at a low level and builds up over time to the full capacity of the facility. It is more efficient to phase the facility development to match the growth in consumers, but this is usually only partly feasible.

If a project’s financial viability is compromised by low initial volumes, a well-targeted means of correcting this is for the LGU to provide an annual support payment up to a certain level of volume. This support takes the form of a guarantee of minimum consumption, and is usually restricted to the early years of a project. If consumption volumes exceed the guaranteed minimum no payment is made. After a certain number of years, usually the time it takes a project to achieve sustainable profits, a claw back mechanism can operate to return the original guaranteed payments to the LGU.

**Tariff Subsidies**

A private operator will set tariffs so as to generate enough revenue to cover all costs including an adequate profit. The public sector does not operate with the same constraints. There are instances where a service has been provided for a long time by the public sector, prices will have little or no direct relation to costs. Low tariffs are often justified by the argument that infrastructure services are essential basic services, and should not be priced above people’s ability to pay (ATP). This argument has merit, but low tariffs for all users are not necessarily the best solution.

It is often possible to provide direct support only to those who need it, thus allowing for the charging of higher tariffs up to the level of full cost recovery. This is already done in water supply pricing, i.e., segmenting the market into residential, commercial and industrial.

As a general principle, tariffs should be set at a level sufficient to achieve full cost recovery. A subsidy is specifically allowed, with such compensation paid by the LGU to the PPP concessionaire based on the ATP of users. Where tariffs are very low, it is sometimes not politically possible to suddenly move to full cost pricing, and prices must adjust over a number of years. A tariff subsidy will be necessary during the adjustment period, with the amount of the subsidy
declining over time as fares rise. The length of the adjustment period is both a policy and a fiscal matter, and therefore a decision for the LGU to make. In some cases tariffs may never attain full cost recovery.

**Guarantees of Construction Risk**

Construction risk is the risk of unforeseen cost increases in the construction of the infrastructure facility. Normally the contractor bears this risk, but where increased costs or delays are anticipated to be caused by the LGU, then it is appropriate for LGU to bear this risk, as the risk is under its control.

The LGU could cause an increase in construction cost perhaps when it wants to reserve the right to enhance the design requirement during the construction period through the mechanism of a reopener. The compensation for that cost increase could take the form of a cash payment, or the operator may be given permission to recover the increase over time through increased tariffs. If a tariff cap is in place, increased tariff subsidies would apply.

**Investment Grants – Calculating the Amount needed to Cover the Viability Gap**

The maximum eligible grant that should be given to a PPP project is the amount equal to the present value of a project’s investment costs plus operating costs less the present value of the net revenue from the investment over a specific reference period discounted at the weighted average cost of capital of the project. The viability-gap approach applies to all projects that generate net revenues through charges borne directly by users.

The investment grant needed to cover the viability gap of a project is calculated as follows:

\[
PV (IC + OC) – PV (R)
\]

where
- \(IC\) = investment cost
- \(OC\) = operating cost
- \(R\) = revenues
- \(PV Discount\) = weighted average cost of funds

The formula aims at ensuring enough financial resources for project implementation, avoiding, at the same time, the granting of an undue advantage to the recipient. It does not apply for projects that do not generate any revenues or those whose revenues do not fully cover operating costs. Funding gap in this case would equal 100%.
2.6 Contractual Considerations

At the heart of any PPP partnership is the contract. The contract delineates the parties’ responsibilities, deliverables and liabilities in case of non-performance. As such, it is crucial for PPP contracts to clearly define all legal, financial and technical aspects which will govern the PPP. A contract with deficient technical specifications or vague risk allocation would render the PPP engagement vulnerable to project failure.

2.6.1 General Features of Complete and Concise PPP Contracts

Well-configured PPP projects are manifestations of complete and concise contracts. The complete and concise PPP contract reflects a financial transaction and not just an engineering endeavor, and a structure for risk and reward sharing, such that:

- It provides for lenders’ requirements;
- It considers profitability and bankability of the project;
- It provides for risk sharing arrangements, mitigation and recourse; thus relatedly, it identifies the parameters of government support; and
- It reflects appropriate project structure, e.g., “bundled” or “unbundled” components to improve viability of the project.

Provision for Lenders’ Requirements

Most PPP (especially BOT) projects have high debt-equity ratios and which frequently conforms to the Bangko Sentral ng Pilipinas (BSP) requirement of at least 30% equity to 70% debt. This means that a sizeable percentage of the investments for a particular PPP project is sourced from credit financing. Hence, it is essential that the terms and conditions for the initiative lenders must pass the lenders’ own criteria, mainly benchmarks on the ability of the project or sponsors to service the debt.

Under a BOT-type model, financing is provided only to the private sector partner. Neither the government nor the parent companies are directly liable for project debt. In this case, mobilized financing is generally on a limited recourse basis. Equity investors prefer this structure since it limits their exposure to the project. Lenders are more stringent due to limited collateral, relying mostly on projected cash flows. Because of this, the lenders will usually require step-in rights or the authority to assign new management for the project if the sponsor fails, so that the project will continue to generate revenues.

Provision for Profitability and Bankability

Most PPP projects rely on equity investors and banks to support the project. To approve financing, lenders and equity investors apply key tests to determine project profitability. These include a reasonable return on equity, acceptable debt-coverage ratio and a consistent measures ensuring a stable revenue stream.
Identification of LGU Support

One misconception is that PPP projects may be undertaken by the private sector investor with no government participation, except for the latter’s approvals and permits as mandated by law. This is because infrastructure services have strong public presence and are traditionally provided by government. Hence, it is not a bad idea to leverage LGU support to attract private sector investments for PPP projects. As discussed in the previous section, there are three kinds of LGU support that may be provided: (1) appropriate sharing of the project’s risks, (2) investment incentives, and, (3) cost sharing. Government political support may also be demonstrated during public hearings and presentations to key stakeholders.

Proper Structuring

Project structuring strategies were discussed in the previous section. Options are considered after the results of the financial analysis are seen, and indicate that the project is not viable based on its present configuration. Thus structuring is done with the endview of improving financial viability for private proponents, without necessarily relying on LGU support. Some of the options discussed in the previous chapter are:

1. Tariff structuring, e.g., transition from low to full cost recovery tariffs; or allow cross subsidy among users, as in the case of water supply where high volume commercial or industrial users are charged more per cubic meter of water compared to the low volume residential users;
2. Bundling or unbundling of project components;
3. Reducing or deferring capital investments; and
4. Extending term of the concession

2.6.2 DETERMINING THE APPROPRIATE CONTRACTUAL ARRANGEMENT

The current BOT law provides for nine variants. Figure 2-6 illustrates the BOT variations and their corresponding stage of transfer.

Figure 2-6: Suggested PPP Modality per Stage of Transfer
The project structure borne out of the financial analysis effectively determines the PPP variant. However, policy considerations also come into play. For example, if the LGU decides that it wants to reduce tariffs to the consuming public, then the project may be structured into a BTO arrangement instead of a BOT, but it takes on a greater project risk. Conversely, if the LGU wants to minimize its risk exposure, then the BOO arrangement may be more appropriate. Allocating more risks to the private sector through BOOs, however, will usually require a transparent regulatory environment with a competent, professional regulatory body that is capable of administering fair price adjustments while adequately protecting the public interests. This is especially true when the private sector partner has a monopoly of the particular service.

2.6.3 KEEPING THE PROJECTS PROTECTED THROUGH SECURITY PACKAGES

The formal allocation of risks is embodied in a set of contracts, collectively called the Security Package. Each contract defines the relationships (including risk allocation) between two or more of the cooperating parties in a PPP initiative.

The general relationship between the different parties, as well as the contracts binding them, is presented in Figure 2-7, while Table 2-9 summarizes the primary documents needed for every type of PPP contract.

**Figure 2-7: Contracts Binding the Actors in a PPP Arrangement**
Table 2-9: Primary Documents in the Security Package

<table>
<thead>
<tr>
<th>PPP Contract</th>
<th>Defines Relationship Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project agreement</td>
<td>Government and private sector participation (PSP) proponent (the project company)</td>
</tr>
<tr>
<td>Fixed-price, date-certain, lump-sum, turnkey construction contract</td>
<td>PSP proponent and construction consortia</td>
</tr>
<tr>
<td>Operating and maintenance agreement</td>
<td>PSP proponent and operating company (if different)</td>
</tr>
<tr>
<td>Loan agreements</td>
<td>PSP proponent and lenders</td>
</tr>
<tr>
<td>Shareholders’ agreement</td>
<td>Equity investors in the project company</td>
</tr>
</tbody>
</table>

2.6.4 THE PROJECT AGREEMENT

The rest of this section will focus on the project agreement, which is the most crucial of all the PPP contracts, at least from the perspective of the LGUs. The project agreement may be denominated in a manner that best describes the project. The project agreement defines the relationship between the government and the PPP proponent, specifically the risks that they will share and the responsibilities that they will be tasked to perform. Sample contracts are presented in volume 3 of this manual.

Project agreements can be voluminous and filled with dense legal language. However, many sections are standard legal provisions. The key, therefore, to understanding project agreements is knowing what are standard provisions and what are key contract provisions or the “deal-makers”.

General Structure

A project agreement should clearly define the basic and legal relationship between the parties and their rights and responsibilities. Where applicable, stipulations providing for the following matters, among others, should be included: bonds, guarantees, insurance, liquidated damages, taxes and duties, project completion date, schedule and amount of milestone bonding, price indices to be used, governing law, force majeure, the effect of changes in circumstances which may be brought about by, among others, the enactment of laws or regulations or changes in existing government policies which will materially affect the financial viability of the project (material adverse government action or MAGA), contract termination, and the manner and procedures for the resolution of disputes (including arbitration procedures).

In general, these provisions of the project agreement are organized under the following categories:

1. Definitions and policy statements
2. Construction provisions
3. Operation provisions
4. Transfer provisions, if applicable
5. Boilerplate provisions (refer to general matters such as contact details for purposes of notice, severability of provisions in case of nullity, assignability, waiver, entire agreement, etc.)
Key Contract Provisions

There are several important contract provisions, in terms of stages, that LGUs should consider in a project agreement, including but not limited to: standards and specifications, project description, concession period, performance security, financing, construction, operation and maintenance, tariff, force majeure, MAGA, representations and warranties, covenants, default and termination, dispute resolution, and general terms.

1. Construction provisions

PPP projects that entail construction must include the following either in the contract itself or as annexes: (1) detailed engineering designs, (2) adherence to construction works, (3) posting of performance guarantees, and (4) supervision of project construction. Construction provisions are clauses that apply during the construction phase of a PPP project. Two key issues to consider in construction contract provisions are the reopener clauses and the conditions for commissioning.

Reopener clauses refer to conditions in the contract that allow the private sector partner to renegotiate contract conditions (often affecting the price or completion date of the facility). Such conditions generally represent uncertainties in the project that cannot be fixed until construction has started. For example, ground conditions that affect the structure of the facility cannot be determined accurately until construction commences.

Box 2-2: Advantages and Disadvantages of Reopener Clauses

There are several advantages and disadvantages of including reopener clauses in the contract. Reopeners give the semblance that the signed contract is not final and that price can still be negotiated. This is generally politically unacceptable, especially if such reopener clauses are eventually exercised. The LGU may not be sure that it has actually obtained the lowest price during bidding. If reopener clauses are not defined well in the PPP contract, bidders can present low bids, knowing they can subsequently renegotiate at a later stage. Care must be taken that the contract will not be declared void due to substantial changes.

Well-defined reopener clauses have several advantages. The foremost advantage is that they reduce the tendency of bidders to submit high bids. Without reopener clauses, bidders will increase the financial costs of their proposals to self-insure themselves against the additional risks they are asked to assume. The result is highly detrimental for the LGU concerned. If such risks occur, the proponent is covered by the higher bid. If such risks do not occur, then the proponent has windfall profit.

Conditions of commissioning are the clauses and specifications that define when the facility shall be completed and considered operational. LGUs should use clear and unequivocal language in the contract, specifying the following: (1) the term “substantial completion,” (2) project milestones, (3) target completion date based upon meeting the requirements of substantial completion, (4) operating parameters, and (5) specifications which the completed facility must adhere to. The procedure for determining substantial completion is particularly critical. The general procedure starts with the issuance of a notice of substantial completion by the private partner and ends when the concession period begins, as illustrated in Figure 2-8.
2. Operation provisions

Operation provisions are provisions that apply to the period wherein actual operations of the PPP project are underway. There are four contract provisions that should be closely examined: (1) insurance, (2) force majeure, (3) buy-out, and (4) events of default.

*Insurance* is defined as safeguards against loss of earning capacity of the project, considering that the lender is expected to be repaid from the revenues of the project. Major insurance required for a PPP project during construction include the constructor’s all risk, third party liability, marine risk and business interruption risk. Major insurance during operations include operator’s all risk, third party liability machinery breakdown and business interruption risk. Finally, in checking the insurance provisions of the PPP contract, LGUs should focus on four issues: (1) perils to be insured against must be specified; (2) the amount of coverage must be specified; (3) criteria for acceptable insurers must be defined; and (4) the proceeds must be used for the repair of the facility unless otherwise agreed to by the LGU.

The key issues in checking *force majeure* provisions in PPP contracts revolve around two issues: (1) identifying the exact conditions under which force majeure may be declared and (2) identifying the results of force majeure and their implications on parties’ obligations. The first issue specifies risk allocation and is covered by previous discussions. The second issue refers to at least four events that occur as a result of force majeure:

- There is a “cure period” during which time all parties attempt to resolve the force majeure problem;
- There is a suspension of the performance of obligations, on both sides;
- There is an extension of the completion date or the contract period;
- The buy-out provision applies if force majeure extends beyond the “cure period”.

*Buy-out conditions* are situations wherein the government buys the project from the private proponent, as on option or as a consequence of default. The payments will depend on the reason for the buy-out which should be provided for adequately in the contract. The LGU may for example exercise the buy-out option in the event of a natural calamity.

In the event of LGU default, the buy-out events should, at the very least, cover unrecovered capital costs incurred by
the private partner. This amount is equal to or greater than the remaining debt plus interest outstanding plus book equity. A more complicated issue is quantifying the lost opportunity, i.e., the lost profits from the remaining years of operation. This situation may be avoided by agreeing on a fixed amount to represent lost profits in the event of a buy-out (such as 10%). A more sophisticated and controversial approach is to calculate the expected returns until the end of the contract period, and pay all or a fraction of this amount. In such a case, the schedule of payments may have to be agreed upon ahead of time.

Events of default define when a buy-out may be exercised. In case of failure or refusal to remedy the default the non-defaulting party may terminate or take over the project, or assign the contract to a third party. Events of default may be classified into three types: (1) actual breaches of contract; (2) anticipatory events which suggest an impending default such as a petition for insolvency or bankruptcy or any breaches in other major contracts; and (3) any changes in the assumptions of the agreement such as destruction of the project or changes in any of the major parties. Sample events of default are listed in Table 2-10.

### Table 2-10: Sample Events of Default

<table>
<thead>
<tr>
<th>Private Sector Partner</th>
<th>Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to perform material obligation or covenant</td>
<td>Failure to perform material obligation or covenant</td>
</tr>
<tr>
<td>Material misrepresentation in reports</td>
<td>Material misrepresentation</td>
</tr>
<tr>
<td>Liquidation or bankruptcy</td>
<td>Failure to remit payments</td>
</tr>
<tr>
<td>Violation of warranties</td>
<td>Non-disclosure</td>
</tr>
</tbody>
</table>

Source: PPP Center PSP Manual, 2001

Default remedies commence upon occurrence of default. Examples of default remedies are: (1) assignment of the project to a third party; (2) termination of the project and take-over; and (3) set-off or compensation and cancellation of any other commitments. Other options are payment of liquidated damages and forfeiture of the performance bond.

### 3. Transfer provisions

Transfer provisions apply to aspects related to the transfer of the PPP facility to the LGU. It particularly concerns PPP projects which have a ‘transfer phase’ (i.e. Build-Operate-Transfer, Rehabilitate-Operate-Transfer, Build-Transfer, or Build-Lease Transfer).

Several contract provisions may be included to ensure that the PPP facility is in working condition before its control and ownership is transferred to the LGU. It should provide service in the manner and quality it was set out to perform. Among these provisions that should be incorporated and examined are the following:

- Pre-agreed schedule of maintenance and an adequate supply of spare parts;
- Responsibilities of the operator;
- Assurances that the facility is operating in good condition;
• Assurances of compliance with good industry standards practices; and
• Joint inspection of the facility prior to actual turnover.

Project transfer provisions in the PPP contract should specify several important considerations and must indicate:
• Who bears the responsibility for securing the required licenses and permits (generally, the government) upon transfer;
• Whether warranties should be given by the private partner, regarding the condition of the facility on the date of transfer;
• Scope and content of training to be given to ensure continued smooth operations once the transfer is effected;
• An inventory count; and
• Assurance that the PPP facility should be free from all liens and encumbrances.

**Rights of private investors and LGU during the period of PPP project transfer.** At the time of hand over of PPP project ownership to the LGU, the private investor obtains and can exercise a distinct set or rights and privileges. At a minimum, the following rights are held by the private investor during transfer phase of the PPP project life:
• To appoint and remove consultants
• To purchase replacement equipment
• To manage and supervise the transfer
• To establish maintenance procedures
• Uninterrupted use and possession of the facility until transfer is finished
• Selection of any third party maintenance

The government, on the other, hand has the following rights:
• Regular inspection visits
• Submission by the proponent of a maintenance plan
• Submission by the proponent of maintenance manuals
3 | The PPP Approval Phase

Upon completion, the project’s feasibility study has to go through the detailed process of project review and approval as provided for by the IRR of RA 7718. This chapter highlights the requirements of national and local approving bodies, as well as critical areas and scope of the PPP project review and approval phase. The Technical Notes attached to this volume provide sample guide questions to guide LGU assessment and approval of a proposal.

3.1 National Approval

As provided for by the IRR of RA 7718, national bodies that approve local PPP projects are the ICC and NEDA Board. The submission of a local PPP project for approval of both bodies depends on the nature, scope and cost of the project following Rule 2, Section 2.7 (a) of the IRR of the amended BOT Law. LGU PPP projects for review and appraisal should be guided by the ICC and NEDA Board Process, Requisite Documents, such as the ICC Project Evaluation Forms and Guidelines (www.neda.gov.ph).

3.2 Local Approval

In accordance with the provisions of the IRR of RA 7718, local approving bodies are the Local Development Council (LDC), the Regional Development Council (RDC) and the Local Sanggunian. The submission of a local PPP project for approval of these bodies depends on the nature, scope and cost of the project following Rule 2, Section 2.7 (b) of the IRR of the amended BOT Law. Local PPP projects which are to be endorsed to the ICC and NEDA Board should comply with the review and appraisal requirements, guidelines and processes of the national approving bodies.
3.3 Project Review and Appraisal

The review and appraisal of a project leading to an investment decision, i.e. approval of a project for implementation, reject or defer a project, or revise and re-configure a project focuses on different aspects which should have been responded to by the PPP project’s FS. Essentially project appraisal is one of the mechanisms for check and balance in allocating scarce LGU resources for projects, or in ensuring that the project is meritorious and will help achieve the government’s goals and objectives. The elements for project appraisal are discussed in detail below.

3.3.1 Market Aspect

Appraisal should be made of the product’s market in terms of geographic coverage and target groups. The LGU’s appraisal team should:

- Assess whether the determinants of demand have been fully identified and whether the methodologies and assumptions used in forecasting demand and price are appropriate and valid;
- Determine whether the sources of supply have been identified and the existing distribution channels and prices have been ascertained; and
- Conduct sensitivity analysis/stress tests to find out the impact of variable changes on the supply and demand assumptions.

3.3.2 Technical Aspect

The technical design should be most appropriate to the reality of the situation, taking into consideration resource availability, possibilities for substituting labor and capital, trade-offs between capital and recurring costs, and the implications of these for management and manpower requirements.

The appraisal should determine whether the design is suitable in terms of capital expenditure per head, scale in relation to market, skills requirements, input requirements against available domestic materials and products in relation to target markets. It should also show how superior this project design is over other alternatives.

The LGU’s appraisal team should look at:

- Issues of technical design such as size, location, timing, and technology package proposed for the project;
- Advantages and limitations of the technology used by the project;
- Environmental impact that would arise out of using the proposed design of the project; and
- Gender impact of proposed design of the project.

3.3.3 Economic and Financial Aspects

The validation of the economic and financial indicators is one of the most critical aspects of project appraisal. The validation should focus on the rationality of the assumptions used in estimating costs and benefits; the methodologies applied are valid; and the formula and computations are correct. The main objective is to ensure an acceptable degree of accuracy of the feasibility indicators.
Economic analysis attempts to assess the overall impact of a project in achieving its larger social objectives. It builds on discounted cash flow analysis. With or without cost revenue sharing, the PPP project must be economically and socially desirable for the government to endorse it. The appraisal of economic aspects verifies whether the costs and benefits or the effectiveness indicators have been fully identified and appropriately measured. The various indicators of project worth such as the NPV, EIRR, and benefit-cost ratio (BCR) must be reviewed. For PPP, these indicators are often considered more important than the indicator of financial viability by the government. A project’s EIRR must meet the hurdle rate of 15% whether it is for public or PPP implementation. Financial analysis is done to ensure financial sustainability and profitability. The first looks at the availability of funds for the investment and operation stages; and the latter looks at positive yields for the project.

### 3.3.4 POLITICAL ACCEPTABILITY AND LEGALITY

A major consideration in judging the operational feasibility of a project is the political acceptability of its activities, as well as the legal authority of the LGU or private proponent to execute them. Not only must the project enjoy the full support of local leadership but the project proponents must also ensure that benefits accrue to its intended clients. In addition, target beneficiaries must be given “co-ownership status” of any such initiative - that is, people must have a positive perception of the project. This can be done through an inclusive consultation process where both women and men participate. Securing the support and active participation of intended beneficiaries at the onset is necessary for effective implementation and operation.

### 3.3.5 ENVIRONMENTAL IMPACT, GENDER RESPONSIVENESS AND SOCIAL SOUNDNESS

The LGU’s appraisal of social soundness of the project should consider:

- Compatibility of the project with the sociocultural environment in which it is to be introduced;
- Likelihood that practices or institutions introduced among the project’s initial target population will be diffused among other groups (demonstration effect);
- Social impact or distribution of benefits and burdens among different groups, both within and outside the project area; and
- The differential impact of the project on women and men due to gender-based roles, responsibilities, access to resources, and power relations, as well as needs and constraints.

The assessment of sociocultural feasibility requires that the values, beliefs, social structures, and organization of the target beneficiaries be taken into serious consideration. Innovations to be introduced by the project should cause minimal social disruption. If social disruption is inevitable (e.g., the need for resettlement), the project design must consider the costs of these disruptions and incorporate approaches (e.g., inducing attitudinal or behavioral changes among participants through intensive information campaigns and participative public forums) that would ensure gradual acceptance of the innovation.
3.3.6 ORGANIZATION AND MANAGEMENT ASPECTS

It is imperative that a person or organizational unit within the LGU be given the responsibility for project management, and be equipped with all the necessary manpower and logistical support to supervise project implementation. Lines of authority and responsibility should also be clearly defined. For some PPP projects, which tend to be large in scale, the demands on existing structure of the LGUs may exceed their capabilities. Planning for project implementation and operation should be flexible enough to include private sector inputs later on, but comprehensive enough to pinpoint relationships with other implementing agencies. Also important is the appraisal of operational aspects which considers non-quantifiable but equally important factors that may impinge on the project’s implementation and operations.

3.4 Securing Approval for the PPP project

As shown in Table 2-1 in chapter 1 of this volume, the approving bodies for LGU projects depending on the level of the project cost are the local sanggunian, regional and local development councils and the NEDA Board’s Investment Coordination Committee. Box 2-3 summarizes the documents that need to be presented to the sanggunian and regional and local development councils.

**Box 2-3: PPP Project Review Requirements for the LDC and Sanggunian**

A. LGU development plan  
B. Feasibility study  
C. LDC project evaluation forms  
   i. General information  
   ii. Risk allocation matrix  
   iii. Technical analysis  
   - Location/Site  
   - Plan for implementation  
   - Gender-responsive social/environmental impact assessment  
   iv. Financial analysis  
   - Financial benefits and costs  
   - Financial viability indicators  
   v. Economic analysis  
   - Economic benefits and costs  
   - Economic viability indicators  
D. ROW acquisition and resettlement plan  
E. Plans to mitigate negative social and environmental impact, if any  
F. Endorsement from the Local Chief Executive of the project  
G. Financing plan
Ensuring Open Competition of Private Investors in LGU PPP Projects

Private sector participation in LGU infrastructure or development projects is important because it is more than just addressing the financial requirements of local projects. It also brings in a synergistic approach which can improve public sector service delivery by bringing on board technology, processes and expertise from the private sector into project implementation. Private sector participation can be realized either through solicitation of proposals or acceptance of unsolicited proposals as provided for in the IRR of the amended BOT Law. Critical to attracting private sector participation is the integrity of the PPP solicitation process. Thus, providing clear guidelines, and demonstrating transparency and accountability fortifies the participation between the public and private sector in PPP projects.

This chapter discusses the processes involved in the competition phase and ways of ensuring the integrity of the review and approval process for the PPP procurement.

4.1 The PPP Procurement Process

4.1.1 SOLICITED PROPOSALS

Solicited proposals originate from the LGU. It follows the project preparation or feasibility study stage, and appraisal or project approval. Solicited proposals are projects identified from the regional/provincial/local development investment programs (RDIP/PDIP/LDIP) and have been approved by the local sanggunian and the appropriate local development councils or the Investment Coordination Committee for PPP implementation. Project proponent refers to the private sector entity with contracted responsibility for the project. In this section, “proponent” is used interchangeably with “bidder” in the context of procurement parlance. A viable proponent is one that has an adequate base to implement a project, with the base consisting of proponent equity and firm commitments from reputable financial institutions to provide, upon award, sufficient credit lines to cover the total estimated project cost.
The procurement of solicited proposals may involve one of two options, as provided for under RA 7718. The procurement process under option 1 has four distinct steps and is distinguished from the abbreviated process of option 2, with the inclusion of pre-qualification as a distinct step. The different steps are (1) pre-qualification (2) tendering (3) submission, and (4) receipt and opening of bids.

In option 1, prequalification is undertaken prior to the issuance of request for proposals while in option 2 it is incorporated in the tendering step and followed by submission and receipt and opening of bids. In short, option 2, the qualification documents are simultaneously submitted together with the technical and financial proposals. The figure below illustrates the procurement process for options 1 and 2.

**Figure 2-9: General PPP Procurement Process for Solicited Proposals**
PPP Procurement Process of Solicited Proposals (Option 1)

The detailed activities for every major process under option 1 for solicited proposals are outlined in Table 2-11.

<table>
<thead>
<tr>
<th>Private Sector</th>
<th>Process Flow</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT ID AND PREPARATION</td>
<td>Prepares the FS and the contract including all necessary documents and submits to the Approving Body.</td>
<td></td>
</tr>
<tr>
<td>APPROVAL BY APPROVING BODY (ICC, NEDA BOARD, LOCAL SANGGUNIANS)</td>
<td>Approving Body is given 30 calendar days (cd) to approve the project and the contract. The subsequent steps ensue only upon approval of the project. If project is disapproved, the LGU can revise and resubmit it or shelve it.</td>
<td></td>
</tr>
<tr>
<td>Secures PQ forms and instructions from the LGU.</td>
<td>ADVERTISEMENT/INVITATIONTO PRE-QUALIFY AND BID</td>
<td>Upon approval of the project and the contract, the PBAC publishes PQ invitation, once a week for 3 consecutive weeks (21 days), in at least 2 newspapers of general circulation and in at least 1 local newspaper of general circulation in the region, province, city or municipality in which the projects are to be implemented. Invitation shall also be posted continuously in the website of the LGU concerned, if available, during the stated period. For projects costing at least US$ 10 million, the invitation may also be published in at least 1 international publication. Likewise, LGU shall issue official notification of the same to project proponents registered with them.</td>
</tr>
<tr>
<td>Prepares PQ documents at least 30 cd from last date of publication of the invitation. For projects costing at least Php300 million, period of preparation is at least 45 cd from last date of publication of invitation.</td>
<td>PREPARATION OF PRE-QUALIFICATION DOCUMENTS</td>
<td></td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>---------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td>Submit PQ documents.  Disqualified bidders may within 15 working days from receipt of notice of disqualification, appeal to the Head of Agency for national projects, or in the case of local projects, to the Head of the DILG unit concerned or his authorized representative. A non-refundable appeal fee shall be filed amounting to no less than one-half of one percent (0.5%) of the project cost.</td>
<td>PRE-QUALIFICATION OF BIDDERS</td>
<td>PBAC shall, within 30 cd after the deadline for the submission of PQ documents, determine who among the prospective project proponents are “pre-qualified” and “disqualified.” The PBAC shall inform pre-qualified and disqualified project proponents of its decision within 7 cd. A disqualified proponent may appeal the disqualification to the DILG, in the case of local projects, within 15 working days from receipt of notice of disqualification. In case of an appeal, the Head of Agency or DILG unit concerned shall act on the appeal within 45 working days from receipt of appeal and upon filing of a nonrefundable appeal fee.</td>
</tr>
<tr>
<td>Pre-qualified bidders are given about 90 to 120 cd to prepare the bid. Projects that cost less than Php300 M - approximately 90 cd Projects that cost above Php300 M - approximately 120 cd</td>
<td>FOR PROPOSAL (RFP)/BID PREPARATION</td>
<td>Issues the request for proposal/tender documents to the pre-qualified bidders. LGU shall conduct a pre-bid conference at least: a) 30 cd before the deadline for bid submission, for projects costing less than Php300 million; and b) 60 to 120 cd before the deadline for bid submission, for projects costing Php300 million and above.</td>
</tr>
<tr>
<td>Bidders submit their proposal in two envelopes: First envelope - the technical proposal, including the bid security; and Second envelope - the financial proposal.</td>
<td>BID SUBMISSION AND EVALUATION</td>
<td>Evaluation of the technical proposal within 30 cd from the date of opening of bids. The evaluation of the financial proposal shall be completed within 15 cd from the date the evaluation of the technical proposal shall have been completed.</td>
</tr>
<tr>
<td></td>
<td>APPROVAL OF CONTRACT AWARD</td>
<td>Recommendation for contract award within 7 cd after completion of the financial evaluation. Head of LGU approves recommendation for contract award within 7 cd after submission of PBAC recommendation. All unsuccessful bidders shall be informed in writing of the results of the bidding.</td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td>Winning project proponent receives “Notice of Award” and shall comply, within 30 cd, with all the conditions and requirements indicated therein.</td>
<td>ISSUANCE OF NOTICE OF AWARD</td>
<td>Head of LGU signs and issues “Notice of Award” to winning bidder, indicating, among others, the requirements for contract award to be submitted by the winning project proponent. Within 7 cd upon receipt of requirements for award, the Head of LGU shall determine and notify the winning project proponent of its compliance of all conditions stated in the Notice of Award. If deadline is not met, and unless otherwise extended, the LGU could confiscate bid security.</td>
</tr>
<tr>
<td>The authorized signatory of the winning project proponent is required to sign the contract within 7 cd.</td>
<td>EXECUTION/APPROVAL OF CONTRACT</td>
<td>The authorized signatory of the LGU is required to sign the contract within 7 cd from receipt by the winning project proponent of the advice from the LGU that the former has complied with all conditions stated in the Notice of Award. The contract shall be effective upon signing thereof by the Head of LGU and unless another date is stipulated therein. An original signed copy of the contract shall be submitted to the Approving Body within 7 cd after signing.</td>
</tr>
<tr>
<td>Complies with conditions precedent for contract implementation (usually includes financial closure).</td>
<td>ISSUANCE OF NOTICE TO COMMENCE IMPLEMENTATION &amp; CONTRACT IMPLEMENTATION</td>
<td>LGU shall issue the “Notice to Commence Implementation” of the project to the winning project proponent not later than 7 cd from the date of approval/signing of the contract by the Head of LGU. It complies with conditions precedent for contract implementation.</td>
</tr>
</tbody>
</table>

Source: RA 6957 as amended by RA 7718 IRR
The Pre-qualification Process of Solicited Proposals (Option 1)

The pre-qualification and selection processes are performed by the PBAC, and entails compliance of project proponents with all the legal, technical and financial requirements prescribed under the IRR of RA 7718. Table 2-12 summarizes the legal requirements which the project proponent must satisfy, while Table 2-13 presents the general qualifications required of individual firms and consortia.

<table>
<thead>
<tr>
<th>Type of project</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOT scheme whose operations require a public utility franchise</td>
<td>Project proponent and facility operator must be a Filipino or, if a corporation, must be duly registered with SEC and owned up to at least 60% by Filipinos. Facility operator must be a Filipino or, if a corporation, must be duly registered with SEC and owned up to at least 60% by Filipinos.</td>
</tr>
<tr>
<td>Scheme other than BOT and requiring a public utility franchise</td>
<td></td>
</tr>
<tr>
<td>Joint venture (JV) or consortium</td>
<td>Project proponent must submit a sworn statement undertaking that, if awarded the contract, the members of the joint venture/consortium shall bind themselves jointly, severally, and solidarily liable for the obligations of the project proponent under the contract. However, if the members organize themselves as a corporation registered under Philippine laws, their liabilities under the contract shall be in accordance with said laws.</td>
</tr>
<tr>
<td>Operated by project proponent itself or facility operator not requiring public utility franchise</td>
<td>The project proponent or the facility operator may be a Filipino or foreign-owned.</td>
</tr>
<tr>
<td>If a Filipino contractor needs to be pre-identified</td>
<td>The contractor must be duly licensed and accredited by PCAB; in case of foreign contractor, PCAB registration will not be required at pre-qualification stage, but it will be one of the contract milestones.</td>
</tr>
</tbody>
</table>

Source: RA 6957, as amended by RA 7718 – IRR
Table 2-13: Qualifications of Individual Firms and Consortia

<table>
<thead>
<tr>
<th>Individual firms</th>
<th>Consortium</th>
</tr>
</thead>
<tbody>
<tr>
<td>The individual firms and/or their contractors may individually specialize on any or several phases of the project/s.</td>
<td>In case of any consortium, the proponent shall be evaluated based on the individual or collective experience of the member-firms of the consortium and of the contractor/s which it has engaged for the project. Furthermore, it is required of the consortium to submit a preliminary business plan identifying its members and its contractors and the description of their respective roles.</td>
</tr>
</tbody>
</table>

Source: RA 6957, as amended by RA 7718 – IRR

The technical capacity of the project proponent in terms of experience and track record is of critical consideration. The project proponent must possess adequate experience both at the levels of the firm and key personnel. The project proponents shall be evaluated based on similar projects they have successfully undertaken. In terms of key personnel experience, on the other hand, the evaluation is based on sufficient experience related to the subject project as specified by the LGU.

Financial capability refers to the capability of the proponent to sustain financing requirements for the detailed engineering plan, construction, operation and maintenance phases of the project. This capability is measured in terms of the following:

a. Proof to provide a minimum amount of equity to the project, measured in terms of net worth of the project proponent, or in case of joint ventures or consortia the combined net worth of the members or a set-aside deposit equivalent to the minimum equity required.

b. Letter testimonial from reputable banks attesting that the project proponent is banking with them and is in good financial standing and has adequate resources.

Private individuals, firms and consortia which satisfy the legal, technical and financial requirements of a proposed PPP project may then proceed to the tender process.
Tendering, Submission, Receipt and Opening of Bids of Solicited Proposals (Option 1)

As soon as the pre-qualification process is completed, the LGU through its PBAC may proceed to the preparation and issuance of tender or bid documents. The contents of said documents should include the following:

1. Instructions to bidders
2. Minimum design, performance standards and specifications, economic parameters
3. Draft contract
4. Bid form
5. Forms of bid and performance securities
6. Current applicable rules and regulations of the BSP
7. Requirements and timelines/milestones of concerned agencies in granting of franchise, if applicable
8. Other documents as may be deemed necessary by the LGU

It is the responsibility of the bidder to accurately complete the bid proposal, taking into consideration every requirement, provision and condition stated in the bid documents. The pre-bid conference is one venue in which bidders may clarify their concerns regarding the bid documents and procurement protocols. Although attendance of project proponents or bidders is not mandatory, their presence and participation in the pre-bid conference should be strongly encouraged. If further clarifications are needed, the LGU through its PBAC may also issue supplemental notices in response to concerns raised by bidders; these clarifications may be raised before or after the pre-bid conference.

The bidders are expected to prepare and submit their proposals following the two-envelope system. The first envelope labeled “Technical Proposal” should contain the following:

**Table 2-14: Contents of the Technical Proposal**

<table>
<thead>
<tr>
<th>Contents</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance statements</td>
<td>Contractual arrangement and term and scope of work</td>
</tr>
<tr>
<td></td>
<td>Project technical specifications</td>
</tr>
<tr>
<td></td>
<td>System features</td>
</tr>
<tr>
<td></td>
<td>Implementation milestones</td>
</tr>
<tr>
<td></td>
<td>Other technical parameters as stated in the tender documents</td>
</tr>
<tr>
<td>Operational feasibility of the project</td>
<td>Should indicate:</td>
</tr>
<tr>
<td></td>
<td><em>Proposed organization</em></td>
</tr>
<tr>
<td></td>
<td><em>Methods and procedures for the operation and maintenance of the project</em></td>
</tr>
<tr>
<td></td>
<td><em>under bidding</em></td>
</tr>
<tr>
<td>Technical soundness/ preliminary</td>
<td>Proposed project timeline</td>
</tr>
<tr>
<td>engineering design</td>
<td></td>
</tr>
</tbody>
</table>

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| Preliminary environmental assessment | Should indicate:  
Probable adverse effects of the project on the environment  
Corresponding mitigating measures to be adopted |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project cost</td>
<td>Total cost of the project</td>
</tr>
<tr>
<td>Bid security</td>
<td>It should be noted that bid security in the form of cash, certified check, manager’s check, letter of credit, bank draft/guarantee, surety bond callable on demand, or any combination of the foregoing must be in accordance with the following:</td>
</tr>
<tr>
<td><strong>Required Bid Security</strong></td>
<td><strong>Project Cost</strong></td>
</tr>
<tr>
<td>2.0% of the project cost</td>
<td>&lt; Php5B</td>
</tr>
<tr>
<td>1.5% of the project cost orPhp100M, whichever is higher</td>
<td>Php5B to &lt;Php10B</td>
</tr>
<tr>
<td>1.0% of the project cost orPhp150M, whichever is higher</td>
<td>Php10B and above</td>
</tr>
</tbody>
</table>
| Gender-responsive social analysis    | Should indicate:  
Probable gender risks and constraints  
Possible actions that can be taken to reduce disparity and enhance opportunities |
| Enhancements                         | May state other terms which the project proponent may offer to the government to make the proposals more attractive, such as, but not limited to:  
Provisions allowing government to share in revenues  
Less government guarantees  
Reduction in the level of government undertakings or support |
| Other documents (as may be required) | Should support the bidder’s technical proposal |

Source: RA 6957, as amended by RA 7718 – IRR
The second envelope labeled “Financial Proposal” should contain the following:

### Table 2-15: Contents of the Financial Proposal

<table>
<thead>
<tr>
<th>Contents</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance statements</td>
<td>Financial parameters stated in the tender documents, including: Liquidated damages (Section 12.3, RA 7718-IRR) Performance and warranty bonds (Sections 12.7 and 12.8, RA 7718-IRR) Insurance cover for the project Warranty period and procedures</td>
</tr>
<tr>
<td>Proposed project cost</td>
<td>Operation and maintenance cost Project financing scheme Sources of financing All other related costs</td>
</tr>
<tr>
<td>Financial bid</td>
<td>Should correspond to the parameters set by the LGU in accordance with Section 4.2 (h) of RA 7718 – IRR Section 7.1 of RA 7718-IRR requires that for BOT, BOO, CAO, DOT, ROT, ROO and other similar variants, the financial proposal should state the proposed user fees/tolls/rentals and other charges, and present worth of the proposed user fees/tolls/rentals and other charges over the fixed term based on the discounting rate and foreign exchange rate prescribed in the bidding documents (in relation to Section 4.3 of RA 7718-IRR)</td>
</tr>
</tbody>
</table>

Source: RA 6957, as amended by RA 7718 – IRR

Late bids are not to be accepted, and must be returned unopened to the bidders.

During the opening of bids, the PBAC should first open only the first envelope containing the Technical Proposal. Bid screening at this level is based on the completeness, and a bid should be automatically rejected if all the required technical proposal documents are not present. In such a case, the second envelope of the rejected bid must be returned unopened to the proponent. Bid withdrawal or modification is allowed if it is done prior to bid opening and only upon written notice. If withdrawal or modification is done after the opening of the first envelope, the bid security of the proponent shall be forfeited.

**Bid Evaluation of Solicited Proposals (Option 1)**

The evaluation of bids for solicited proposals goes through two stages. The first is the evaluation of the Technical Proposal, while the second pertains to the assessment of the Financial Proposal. The criteria for evaluating the proposals are summarized in Table 2-16.
Table 2-16: Evaluation Criteria

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical soundness</td>
<td>Basic engineering design conforms to the minimum design and performance standards and specifications set by the LGU</td>
</tr>
<tr>
<td></td>
<td>Engineering surveys, plans and estimates should be undertaken within +/- 20% of the final quantities</td>
</tr>
<tr>
<td></td>
<td>Construction methods and schedules should be shown to be feasible or doable</td>
</tr>
<tr>
<td>Operational feasibility</td>
<td>Proposed organization, methods, and procedures for operating and maintaining the complete facility should:</td>
</tr>
<tr>
<td></td>
<td>(1) be well defined; (2) conform to prescribed performance standards; and (3) be shown to be workable</td>
</tr>
<tr>
<td></td>
<td>Where feasible, it should provide for the transfer of technology used in every phase of the project</td>
</tr>
<tr>
<td>Environmental standards</td>
<td>Proposed project design and technology should be based on DENR standards</td>
</tr>
<tr>
<td></td>
<td>Any adverse effects on the environment as a consequence of the project as proposed by the project proponent and corresponding mitigating measure of the proposed project should be identified</td>
</tr>
<tr>
<td>Gender-Responsive Social Impact</td>
<td>Proposed project design should address gender-related issues</td>
</tr>
<tr>
<td></td>
<td>Strategies to address such issues should be identified</td>
</tr>
<tr>
<td>Project Financing</td>
<td>Proposed financing plan should adequately meet construction, operating and maintenance costs requirements</td>
</tr>
<tr>
<td>Enhancements</td>
<td>Other terms offered to the government to make the proposals more attractive</td>
</tr>
</tbody>
</table>

Source: RA 6957 as amended by RA 7718 – IRR

The PBAC may set its own system of using points or weights in its technical evaluation, and in its assessment and comparison of documents that bidders submit for their consideration. Only those bids which pass the first stage of evaluation shall be qualified and considered for the second stage of evaluation.

**Award of Contract for Solicited Proposals (Option 1)**

The conferment of award is based on the recommendations made by the PBAC to the LCE, as clearly stated in the PBAC Evaluation Report. The contract is awarded to the best complying bid, i.e., the bid that will render the required services at the least cost and therefore, is most advantageous to the government. The award of contract should be made by the LGU concerned within the period of bid validity, which is within 180 calendar days of bid opening. In the event
when extension for bid validity is requested by the LGU due to justifiable reasons, bidders have the right to refuse to grant such an extension without forfeiting their bid security.

Upon receipt of the notice of award, the winning bidder must, within 30 calendar days comply with all the documentary requirements of the contract, which may include the following:

a. Prescribed performance security  
b. Proof of commitment of the required equity contribution  
c. Proof of firm commitments from a reputable financial institution to provide sufficient credit lines to cover the total estimated cost of the project  
d. In case the winning bidder is a consortium, an agreement indicating that the members are jointly and severally liable for the obligations of the project proponent under the contract  
e. In case the winning bidder is a Special Purpose Company formed specifically to undertake the project, proof of registration in accordance with Philippine laws  
f. Other such requirements as may be imposed by the LGU.

In the event that these requirements are not met within the prescribed period, the bid security of the winning project proponent shall be confiscated. It should be noted that as long as there is at least one complying bidder, a contract may be awarded. However, if there is only one complying bidder, direct negotiation may be undertaken by the LGU, as long as the process conforms with Section 9.1, Rule 9 of RA 7718.

Prior to project implementation, the LGU may also opt for rebidding under the following circumstances:

a. Refusal of the complying and qualified bidders to execute the contract  
b. Failure of bidding, when no complying bids are received
PPP Procurement Process of Solicited Proposals (Option 2)

The second option in the PPP procurement process for solicited proposals is for circumstances that need the immediate action or intervention of government. As earlier stated, option 2 allows for qualification documents to be simultaneously submitted with the technical and financial proposals. The procurement process for option 2 is summarized in Table 2-17.

Table 2-17: The Public Bidding Process under RA 7718 (Option 2)

<table>
<thead>
<tr>
<th>Private Sector</th>
<th>Process Flow</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PROJECT ID AND PREPARATION</td>
<td>Prepares FS and the contract including all necessary documents and submits to the Approving Body for approval.</td>
</tr>
<tr>
<td></td>
<td>APPROVAL BY APPROVING BODY (ICC, NEDA BOARD, LOCAL SANGGUNIANS)</td>
<td>Approving Body is given 30 cd to approve the project and the contract.</td>
</tr>
<tr>
<td></td>
<td>ADVERTISEMENT/ INVITATION TO PRE-QUALIFY AND BID</td>
<td>Upon approval of the project and the contract, the LGU PBAC publishes invitation to qualify and bid, once a week for 3 consecutive weeks (21 days), in at least 2 newspapers of general circulation and in at least 1 local newspaper of general circulation in the region, province, city or municipality in which the projects are to be implemented. Said invitation shall also be posted continuously in the website of the LGU concerned, if available, during the stated period. For projects costing at least US$ 10 million, invitation may also be published in at least 1 international publication. Likewise, LGU shall issue official notification of the same to project proponents registered with them.</td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Secures qualification forms and tender documents. Bidders prepare their qualification documents and bid proposal in about 90 to 120 cd.</td>
<td>ISSUANCE OF REQUEST FOR PROPOSAL (RFP)/BID PREPARATION</td>
<td>Issues the qualification forms and the request for proposal/tender documents to interested bidders. LGU shall conduct a pre-bid conference at least 30 cd before the deadline for bid submission, for projects costing less than PhP300 million and at least 60 cd to 120 cd before the deadline for bid submission, for projects costing PhP300 million and above.</td>
</tr>
<tr>
<td>- projects costing less than PhP300M - approximately 90 cd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- projects costing above PhP300M - approximately 120 cd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bidders submit their proposal in 3 envelopes:</td>
<td>BID SUBMISSION AND EVALUATION</td>
<td>LGU PBAC evaluates the qualification documents within 15 cd from the date of opening of the qualification documents. Bidders shall be informed whether they are qualified or disqualified, and for the latter, the reasons for disqualification. Only qualified bidders shall be allowed to participate in the bid evaluation. The technical proposal shall be evaluated within 30 cd and the financial proposal within 15 cd from receipt of the documents. In case of an appeal, the Head of DILG unit concerned shall act on the appeal within 45 working days from receipt of appeal and upon filing of a non-refundable appeal fee.</td>
</tr>
<tr>
<td>1. First envelope - the qualification documents;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Second envelope - the technical proposal, including the bid security;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Third envelope - the financial proposal.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disqualified bidders may within 15 working days from receipt of notice of disqualification, appeal to the Head of Agency for national projects, or in the case of local projects, to the Head of the DILG unit concerned or his authorized representative. A non-refundable appeal fee shall be filed amounting to no less than one-half of one percent (0.5%) of the project cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td>APPROVAL OF CONTRACT AWARD</td>
<td></td>
<td>PBAC submits to the Head of LGU recommendation for contract award within 7 cd after completion of the financial evaluation. Head of LGU approves recommendation for contract award within 7 cd after submission of PBAC recommendation. All unsuccessful bidders shall be informed in writing of the results of the bidding.</td>
</tr>
</tbody>
</table>

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84 Volume 2: Developing PPP Projects for LGUs
### Tendering, Submission and Receipt of Bids of Solicited Proposals (Option 2)

While the requirements for this step in the procurement process are similar for options 1 and 2, the simultaneous submission of prequalification requirements with the technical and financial proposals shortens the timeline for the tendering, submission and receipt of bids. Table 2-18 presents the tendering, submission, and receipt of bids process vis-à-vis the responsible party and period of action.

<table>
<thead>
<tr>
<th>Private Sector</th>
<th>Process Flow</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winning project proponent receives “Notice of Award” and shall comply, within 30 cd, with all the conditions and requirements indicated therein.</td>
<td>ISSUANCE OF NOTICE OF AWARD</td>
<td>Head of LGU signs and issues “Notice of Award” to winning bidder, indicating, among others, the requirements for contract award to be submitted by the winning project proponent within 7 cd upon receipt of requirements for the award. The Head of LGU shall determine and notify the winning project proponent of its compliance of all conditions stated in the Notice of Award. If deadline is not met, and unless otherwise extended, the LGU could confiscate bid security.</td>
</tr>
<tr>
<td>The authorized signatory of the winning project proponent is required to sign the contract within 7 cd from receipt of advice from the LGU that it has complied with all conditions stated in the Notice of Award.</td>
<td>EXECUTION/ APPROVAL OF CONTRACT</td>
<td>The authorized signatory of the LGU is required to sign the contract within 7 cd from receipt by the winning project proponent of the advice from the LGU that the former has complied with all conditions stated in the Notice of Award. The contract shall be effective upon signing thereof by the Head of LGU and unless another date is stipulated therein. An original signed copy of the contract shall be submitted to the Approving Body within 7 cd after signing.</td>
</tr>
<tr>
<td>Complies with conditions precedent for contract implementation (usually includes financial closure.)</td>
<td>ISSUANCE OF NOTICE TO COMMENCE IMPLEMENTATION &amp; CONTRACT IMPLEMENTATION</td>
<td>Shall issue the “Notice to Commence Implementation” of the project to the winning project proponent not later than 7 cd from the date of approval/ signing of the contract by the Head of LGU. It complies with conditions precedent for contract implementation.</td>
</tr>
</tbody>
</table>

Source: RA 6957 as amended by RA 7718 IRR

Note: cd – Calendar Days
### Table 2-18: Tendering, Submission and Receipt of Bids Process for Solicited Proposals (Option 2)

<table>
<thead>
<tr>
<th>Process</th>
<th>Responsible Party</th>
<th>Period of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publish invitation to prequalify and bid</td>
<td>PBAC</td>
<td>Once every week for 3 consecutive weeks in at least 2 newspapers of general circulation and in at least 1 local newspaper of general circulation in the region, province, city, or municipality</td>
</tr>
<tr>
<td>Submit qualification documents and bid proposals</td>
<td>Bidder</td>
<td>Within 90 cd from last date of publication</td>
</tr>
<tr>
<td>Submit qualification documents and bid proposals for projects costing above PhP300M</td>
<td>Bidder</td>
<td>Within 120 cd from last date of publication</td>
</tr>
<tr>
<td>Pre-bid conference for projects costing &lt; PhP300M</td>
<td>PBAC</td>
<td>At least 30 cd before bid submission</td>
</tr>
<tr>
<td>Pre-bid conference for projects costing PhP300M up</td>
<td>PBAC</td>
<td>60 to 120 cd before bid submission</td>
</tr>
</tbody>
</table>

Note: cd – Calendar Days

### Bid Evaluation of Solicited Proposals (Option 2)

The criteria for evaluating bids for solicited proposals are the same for the first and second options. For option 2, however, the qualifications of the bidders are assessed during the bid evaluation - instead of the pre-qualification stage. This assessment is conducted by the PBAC prior to its evaluation of the submitted technical and financial proposals. Disqualified bidders may appeal to the LCE within 15 working days from receipt of their “Notice of Disqualification.” The appellant is required to pay a non-refundable appeal fee of at least one-half of one percent (0.5%) of the project cost. The LCE should act on the appeal within 45 working days from receipt of the appeal and the appeal fee. Table 2-19 provides the bid evaluation process vis-à-vis responsible party and period of action.
### Table 2-19: Bid Evaluation Process for Solicited Proposals (Option 2)

<table>
<thead>
<tr>
<th>Process</th>
<th>Responsible Party</th>
<th>Period of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluate qualification documents</td>
<td>PBAC</td>
<td>Within 15 cd from date of bid opening</td>
</tr>
<tr>
<td>Evaluate technical proposal</td>
<td>PBAC</td>
<td>Within 30 cd after completion of evaluation of qualification documents</td>
</tr>
<tr>
<td>Evaluate financial proposal</td>
<td>PBAC</td>
<td>Within 15 cd after completion of evaluation of technical proposal</td>
</tr>
</tbody>
</table>

Source: RA 6957 as amended by RA 7718 IRR
Note: cd – Calendar Days

### Award of Contract for Solicited Proposals (Option 2)

Table 2-20 summarizes the award of contract process for option 2, vis-à-vis the responsible party and period of action.

### Table 2-20: Award of Contract Process for Solicited Proposals (Option 2)

<table>
<thead>
<tr>
<th>Award of Contract</th>
<th>Responsible Party</th>
<th>Period of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit recommendation for contract award to LGU head</td>
<td>PBAC</td>
<td>Within 7 cd after completion of evaluation of financial proposal</td>
</tr>
<tr>
<td>Approve recommendation for contract award</td>
<td>LGU Head</td>
<td>Within 7 cd after submission of PBAC recommendation</td>
</tr>
<tr>
<td>Sign and issue Notice of Award (NOA) to winning bidder indicating contract conditions and requirements for compliance</td>
<td>LGU Head</td>
<td></td>
</tr>
<tr>
<td>Receive NOA and comply with the contract conditions and requirements</td>
<td>Winning bidder</td>
<td>Within 30 cd after receipt of Notice of Award</td>
</tr>
<tr>
<td>Notify winning bidder</td>
<td>LGU Head</td>
<td>Within 7 cd upon receipt of requirements for award</td>
</tr>
<tr>
<td>Sign contract</td>
<td>LGU authorized signatory</td>
<td>Within 7 cd from receipt by winning bidder of advice from the LGU of the complied conditions in the NOA</td>
</tr>
<tr>
<td></td>
<td>winning bidder</td>
<td>Within 7 cd from receipt of advice from the LGU of the complied conditions in the NOA</td>
</tr>
<tr>
<td>Submit original signed copy of the contract to Approving Body</td>
<td>LGU</td>
<td>Within 7 cd after signing</td>
</tr>
<tr>
<td>Issue notice to commence implementation</td>
<td>LGU</td>
<td>Not later than 7 cd from the date of contract approval/signing by the LGU Head</td>
</tr>
</tbody>
</table>

Note: cd – Calendar Days
In the event that the winning bidder fails to comply with the documentary requirements of the contract, the LGU may confiscate the bid security unless the latter extends the deadline.

4.1.2 UNSOLICITED PROPOSALS

Unsolicited proposals originate from the private sector. It refers to a project proposal that involves a new concept or technology or a project that is not in the list of priority projects of the LGU. It is not in response to a formal solicitation or request issued by the LGU to undertake infrastructure or development projects. This type of proposal is the perception of the private sector on how it might address a development gap or a prevailing issue in the LGU. To better comprehend the PPP process for unsolicited proposals it is helpful to know the basic concept of a negotiated contract, original proponent, and comparative proposal. A negotiated contract is a contract based either on direct negotiation (based on the process for solicited proposals) or the unsolicited proposal itself. The original proponent - the bidder who submitted a complete proposal for a project which is not included in the list of priority projects but with a potential to introduce a new concept and/or technology that contributes to the achievement of the development agenda of the LGU concerned. A comparative proposal refers to a proposal that is competitive or at par with the unsolicited proposal. A comparative proposal can challenge the project cost of the unsolicited proposal of the original proponent to ensure efficiency.

Process

The process for unsolicited proposals is different from the typical procurement process, and is composed of fourteen (14) general steps that are presented in Figure 2-10.
If the LGU decides to implement a project through the unsolicited mode, it should evaluate proposals using a first in time approach, which means that the first complete proposal is evaluated and decided upon. The second complete proposal will only be entertained if the first one is rejected.

Table 2-21 further details the fourteen (14) steps of procurement for unsolicited proposals vis-à-vis responsible party and period of action, and apportioned in the succeeding subsections for emphasis and easy reference.

**Table 2-21: Process for Unsolicited Proposals Under RA 7718**

<table>
<thead>
<tr>
<th>Private Sector</th>
<th>Process Flow</th>
<th>LGU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proponent prepares and submits to the agency/ LGU a complete proposal, consisting of at least a feasibility study, company profile, and the draft contract.</td>
<td>SUBMISSION OF A COMPLETE PROPOSAL</td>
<td>Acknowledges receipt and advises the proponent, within 7 cd from submission, if proposal is complete, or if incomplete what additional information is necessary.</td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td></td>
<td>EVALUATION OF THE PROPOSAL</td>
<td>If proposal is complete, LGU evaluates the project proposal and advises the proponent in writing, 30 cd, whether it accepts or rejects the proposal. Acceptance gives the proponent the &quot;original proponent&quot; status. The LGU shall inform the Approving Body of its decision to accept or to reject the unsolicited proposal. In case of acceptance, the LGU submits to the Approving Body all pertinent documentation.</td>
</tr>
<tr>
<td></td>
<td>NEGOTIATION WITH ORIGINAL PROPONENT</td>
<td>LGU shall negotiate with the original proponent and shall secure confirmation of the indicative reasonable rate of return from the Approving Body prior to negotiation. Negotiations shall be completed within 90 cd from receipt by the original proponent of written notice from the LGU to commence negotiation. At the end of the 90 cd negotiation period, the LGU shall submit a report of the result of its negotiation with the original proponent to the Approving Body.</td>
</tr>
<tr>
<td></td>
<td>APPROVAL OF THE PROJECT PROPOSAL AND CONTRACT BY THE APPROVING BODY (ICC, NEDA BOARD OR LOCAL SANGGUNIAN)</td>
<td>Head of LGU endorses the proposal and the contract to the Approving Body. It shall be accompanied by an evaluation by the LGU of the project’s merits as justification for accepting the project. The Approving Body is given 30 cd from receipt of the endorsement by the LGU to render a decision on the project and the contract. The Approving Body shall issue the Notice of Approval to the original proponent</td>
</tr>
<tr>
<td></td>
<td>ADJUSTMENTS OF TOLLS/ FEES/ RENTALS / CHARGES</td>
<td>Prior to bidding, the LGU shall secure either the advice of the Regulator or the approval of the Approving Body or both, as the case maybe, for the pre-determined formula and official price indices for the adjustment of tolls, fees, rentals and charges that may be granted during contract implementation.</td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td>Within 45 cd from the receipt of the Notice of Approval issued by the Approving Body, the original proponent shall notify the LGU in writing of its acceptance of all the terms and conditions of the approval of the Approving Body. Failure by the original proponent to submit such acceptance in writing shall be deemed a rejection of the unsolicited proposal.</td>
<td>ACCEPTANCE OF TERMS AND CONDITIONS BY THE ORIGINAL PROPONENT</td>
<td>The LGU PBAC shall publish the invitation for comparative proposals after receipt of the notification from the original proponent that the latter accepts all the terms and conditions indicated in the Notice of Approval. The invitation shall be published for 3 consecutive weeks in at least 1 newspaper of general circulation. Said invitation shall also be posted continuously in the website of the LGU concerned, if available, during the stated period. For projects costing at least US$10 million, the invitation may also be published at least once in at least 1 international publication.</td>
</tr>
<tr>
<td>The original proponent posts a bid bond on the first date of the publication of the solicitation for comparative proposals. It reformats and resubmits its proposal according to the requirements of the agreed terms of reference (TOR) for the solicitation of comparative proposals.</td>
<td>ISSUANCE OF INVITATION FOR COMPARATIVE PROPOSALS</td>
<td></td>
</tr>
<tr>
<td>Comparative proponents are given 60 working days to submit their proposals, reckoned from the date of issuance of tender documents. Proposals shall be prepared and submitted in 3 envelopes: First envelope - the qualification Documents, Second envelope - the technical proposal, including the bid security, and Third envelope - the financial proposal.</td>
<td>PREPARATION AND SUBMISSION OF COMPARATIVE PROPOSALS</td>
<td>The PBAC shall hold a pre-bid conference 10 working days after the issuance of the tender documents.</td>
</tr>
<tr>
<td>Private Sector</td>
<td>Process Flow</td>
<td>LGU</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td>EVALUATION OF PROPOSALS</td>
<td>The PBAC evaluates the first envelope within 30 cd from the deadline set for the submission of bids. The second envelope of qualified comparative proponents shall be evaluated 30 cd. Finally, the third envelope of technically complying comparative proponents shall be evaluated within 15 cd. If the price of the original proponent was not disclosed in the tender documents, it shall be revealed upon the opening of the financial proposals of the technically complying comparative proponents.</td>
<td></td>
</tr>
<tr>
<td>The original proponent shall have the right to match the best proposal within 30 working days upon the official notification by the LGU of the most advantageous financial proposal.</td>
<td>DETERMINATION OF THE WINNING PROPONENT</td>
<td>If the price of the winning comparative proponent is not matched, the winning comparative proponent shall be considered for award. In the event of refusal, inability or failure of the winning comparative proponent to enter into contract with the LGU, the LGU concerned shall consider for award the bidder with the next-ranked complying comparative bid which is better than the offer of the original proponent. The original proponent shall again be given the right to match the comparative proponent’s bid. If no other comparative bid is determined to be better than the offer of the original proponent, the project shall immediately be awarded to the original proponent.</td>
</tr>
<tr>
<td>APPROVAL OF CONTRACT AWARD</td>
<td>PBAC submits to the Head of LGU recommendations for contract award within 7 cd after completion of the financial evaluation. Head of LGU approves recommendation for contract award within 7 cd after submission of PBAC recommendation. All unsuccessful bidders shall be informed in writing of the results of the bidding.</td>
<td></td>
</tr>
</tbody>
</table>
### Private Sector

Winning project proponent receives Notice of Award and shall comply within 30 cd with all the conditions and requirements indicated therein.

### Process Flow

- **ISSUANCE OF NOTICE OF AWARD**

**Head of LGU signs and issues Notice of Award to winning bidder, indicating, among others, the requirements to be submitted by the winning project proponent within 30 cd from official receipt of the Notice of Award. Within 7 cd upon receipt of the requirements of the award, the Head of LGU shall determine and notify the winning project proponent of its compliance of all conditions stated in the Notice of Award. If deadline is not met, and unless otherwise extended, the LGU could confiscate bid security.**

- **EXECUTION/ APPROVAL OF CONTRACT**

**The authorized signatory of the LGU is required to sign the contract within 7 cd from receipt by the winning project proponent of the advice from the LGU that the former has complied with all conditions stated in the Notice of Award. The contract shall be effective upon signing by the Head of LGU unless another date is stipulated there. An original signed copy of the contract shall be submitted to the Approving Body within 7 cd after signing.**

- **ISSUANCE OF NOTICE TO COMMENCE IMPLEMENTATION & CONTRACT IMPLEMENTATION**

**Shall issue the Notice to Commence Implementation of the project to the winning project proponent not later than 7 cd from the date of approval/ signing of the contract by the Head of LGU. LGU complies with conditions precedent for contract implementation.**

### LGU

Source: RA 6957 as amended by RA 7718 IRR

Note: cd – calendar days

### Submission and Prequalification of Unsolicited Proposal

The proponent prepares and submits to the LGU a complete and comprehensive proposal. This should include, at the minimum, a cover letter, feasibility study, company profile, draft contract and other documents that are proprietary in nature. Upon submission of the unsolicited proposal, the LGU pre-qualifies the project proponent. It is imperative on the part of the LGU to screen or at least gauge the capacity and qualification of the project proponent before assessing if it is able to introduce novel concepts or technology supportive to the development thrusts of the LGU concerned. Proponents of unsolicited proposals should also be able to meet all pre-qualification requirements similar to that for solicited proposals as prescribed under Rule 5 of the IRR of RA 7718.
Evaluation of Unsolicited Proposal

The evaluation of the unsolicited proposal focuses on LGU assessment of the proposal’s consistency with the LGU’s development strategy. If consistency is determined, the LCE then gets the local sanggunian’s approval and then endorses the proposal to the ICC for approval. The assessment of the ICC, on the other hand, focuses on the concept or technology being proposed to the LGU which must possess at least one of the following attributes stipulated in the IRR of RA 7718, as follows:

1. A recognized process, design, methodology or engineering concept which has demonstrated its ability to significantly reduce construction costs, accelerate project execution, improve safety, enhance project performance, extend economic life, reduce costs of facility maintenance and operations or reduce negative environmental impact or social/economic disturbances or disruptions during either the project implementation/construction phase or the operation phase;
2. A process for which the project proponent or any member of the proponent consortium possesses exclusive rights, either worldwide or regionally;
3. A design, methodology or engineering concept for which the proponent or a member of the proponent joint venture or consortium possesses intellectual property rights.

The unsolicited proposal evaluation process is defined under Rule 10, Section 10.7 of the IRR of RA 7718.

Negotiation of Unsolicited Proposal

Once an unsolicited proposal is evaluated positively, the proponent and LGU may begin to negotiate the terms of the PPP undertaking. More specifically, negotiations may focus on the project scope, implementation arrangements, rate of return on investments and other parameters determined by the ICC, as well as the terms and conditions of the draft contract. The negotiation process for unsolicited proposals is explained under Rule 10, Section 10.8 of the IRR of RA 7718.

Tendering to Opening of Comparative Bids

The proposal may be opened to other proponents that might have the capacity to undertake the unsolicited proposal and offer comparative bids. Comparative bids not only promote competition but also allow for cross checking as to the justifiability of the proposed project cost of the original proponent. Comparative bidders are required to submit their respective bid securities in accordance with the form and amount prescribed under Rule 7 of the IRR of RA 7718. Among the required tender documents is the draft contract as agreed upon by the LGU and original proponent and as approved by the LGU head. Note, however, that since the terms in the draft contract between the LGU and original proponent are considered final, comparative bidders are not allowed to negotiate on these pre-determined terms. Rule 10 (sections 10.10 to 10.17) of the IRR of RA 7718, provides the detailed process for comparative bidders.
Evaluation of Comparative Bids

The process for evaluating comparative bids is provided in Rule 10, Section 10.15 of the IRR of RA 7718. For comparability, the evaluation criteria used for qualifying the original proponent should be the same criteria used in the terms of reference for the comparative bidders. The evaluation criteria used in solicited proposals to determine qualification of bidders, as well as for the technical and financial proposals, also apply to unsolicited proposals.

Award of Contract for Unsolicited Proposals

The process culminates at the awarding of contract to the best complying bid.

[...] In the event that a comparative proponent submits a price proposal better than that submitted by the original proponent, the latter shall have the right to match such price proposal within thirty (30) working days from receipt of a notification from the Agency/LGU of the result of the comparative or competitive bid. Should the original proponent fail to match the price proposal of the comparative proponent within the specified period, the contract shall be awarded to the comparative proponent. On the other hand, if the original proponent matches the price proposal of the comparative proponent within the specified period, the project shall immediately be awarded to the original proponent (Section 10.1.c, RA 7718 - IRR).

The winning proponent must be able to meet all contractual conditions and requirements prior to the commencement of project implementation. The award of contract process is discussed in Rule 11, Sections 11.1 to 11.3 of the RA 7718 IRR, summarized in Table 2.21.
5 | PPP Cooperation

To ensure a synergistic environment for a PPP project, several elements need to be set in place. First, policies should strike a balance between public welfare on the one hand, and private investor interests and investment protection on the other. Second, risks should be identified and prudently allocated. Third, contracts should be crafted in such a way as to clearly delineate roles, responsibilities and deliverables between the parties involved and assign risk coverage. Lastly, the establishment and implementation of the PPP facility should be pursuant to the provisions agreed upon by both the LGU and the private investor. All of these are discussed in this chapter as prerequisites for effective cooperation between LGUs and private sector partners in a PPP arrangement.

5.1 Implementation Arrangements

As discussed in chapters 2 and 4 of this manual, the partnership between the LGU and the private sector proponent is sealed by a contract. During the cooperation phase, both parties adhere to the arrangement. Thus, it is critical that the LGU ensures that the concession agreement is duly complied with in accordance to the identified roles and obligations of both parties.

The LGU during this phase therefore needs to be mindful of the provisions of the PPP contract, particularly on the following:

- Construction provisions
- Operation provisions
- Transfer of project, if applicable
- Tariffs to the end-user
- Quantity and quality of contracted goods or services, or performance standards
5.2 Monitoring and Evaluation

Similar to other projects, monitoring and evaluation cuts across the different phases of the PPP framework as presented in chapter 1 of this manual. During the development phase, indicators for success are identified and defined to gauge how the project will help address a development gap or local issue. As the project is developed and approved, the LGU is responsible for ensuring that contract provisions are duly implemented from the start of construction to the operation of the proposed project.

Rule 14, Sections 14.1 and 14.2 of RA 7718 – IRR explicitly states how PPP projects are to be coordinated and monitored. Administering, monitoring and evaluation are also subject to the guidelines of local and national approving bodies such as the sanggunian, RDC, ICC and NEDA Board.

The issuance of Notice to Proceed by the local chief executive formally marks the beginning of the implementation phase. It is at this point that the LGU takes on the primary responsibility of coordinating PPP project-related activities, ensuring compliance by the private partner to the agreed upon technical specifications, and monitoring the construction and operations of the PPP facility.

**Figure 2-11: Responsibilities of LGUs in PPP Project Monitoring**

Since most PPP projects entail construction activities, it is imperative for the LGU to have a clear understanding of their monitoring role during this stage of PPP implementation, especially since (1) the quality of the construction works, especially adherence to approved specification, must be assured by the LGU; (2) unexpected events may affect project schedule, and the LGU must respond appropriately to problems or issues that may delay completion; and (3) the power to correct any deficiency or any divergence to the agreed upon specification rests with the LGU concerned.
5.3 The PPP Center's Role in Monitoring and Evaluation of LGU PPP Programs

According to the BOT Law and Executive Order No. 8 series of 2010, the PPP Center shall monitor PPP program implementation. Specifically, it is tasked to perform the following roles related to monitoring and evaluation:

1. **BOT Law** - As stipulated in the IRR of RA 7718, Rule 14, Section 14.2, the Center is responsible for LGUs implementing PPP to comply with the provisions of the amended BOT Law and its IRR. In addition, it is also responsible for submitting to Congress copies of all PPP contracts implemented under the Law’s mandate.

2. **EO 8** - Mandates it to monitor and facilitate the implementation of priority programs and projects of agencies/LGUs and prepare annual reports to the President on the implementation of the PPP.

Part of undertaking PPP program monitoring and evaluation is guiding LGUs through the PPP project cycle: (1) Project preparation; (2) Project review and approval; (3) Preparation of bid documents; (4) Pre-qualification and bid evaluation; and (5) Contract award and Implementation. The services of the PPP Center for the LGU are as follows:

1. Provides advisory services and technical assistance in project preparation;
2. Clarifies procedures and guidelines for development, appraisal, and evaluation of PPP projects and contracts;
3. Provides training and capacity development interventions;
4. Provides fund for pre-investment activities of potential PPP projects.

The PPP Center has six services under the Office of the Executive Director as illustrated below.

**Figure 2-12: The PPP Center Organizational Structure**
REFERENCES


Project approval thresholds are as follows: Municipal Development Council for local projects costing Php20 million and below; Provincial Development Councils- above Php20 million up to Php50 million, City Development Councils- Php50 million and below; Regional Development Council- above Php50 million up to Php200 million; and NEDA Investment Coordination Committee- above Php200 million.

ii A Swiss challenge is a form of public procurement which requires a government agency that has received an unsolicited bid for an infrastructure project to publish the bid and invite other parties to make better offers. In some jurisdictions like the Philippines, the original proponent is given the right to match the most responsive bid received. Other countries give an advantage in price or a “bonus” to the original sponsor during the selection process instead of the right to match.

iii Project affected persons (PAPs) include any person or persons, household, firm or private or public institution who, on account of either voluntary or involuntary acquisition of assets, would lose their rights, title or interest to all or any part of the house, land (residential, agricultural, industrial, etc.) annual or perennial crops and trees, or any other fixed or movable asset acquired or possessed, in full or in part, permanently or temporarily, and who might suffer income or business loss as a consequence.

iv Alternatively, government can also provide voucher-like support to selected customers, usually low income groups, for private infrastructure services.
TECHNICAL NOTES
Technical Note 1

Environment, Gender and Resettlement Assessment Guide

This Technical Note provides a detailed discussion of guidelines to comply with environment, gender and social compliance requirements.

A. ENVIRONMENTAL IMPACT ASSESSMENT

Philippine EIA Requirements

An overview and simplified version of the requirements, processes and procedures of the Philippine EIA System that is necessary for LGUs to know so that they can either participate or contract out the preparation of required EIA reports is covered under this LGU PPP manual. The full detail of the processes and procedures of the Philippine EIA System is provided in the “Revised Procedural Manual (DENR Administrative Order No. 30 Series of 2003—Implementing Rules and Regulations of Presidential Decree no. 1586, Establishing the Philippine Environmental Impact statement System)” published by the Environmental Management Bureau in August 2007.

New rules and regulations to this procedural manual are provided in EMB’s Memorandum Circular no. 2010-14 “Standardization of Requirements and Enhancement of Public Participation in the Streamlined Implementation of the Philippines EIS System.” This MC, in particular, introduced four new changes in the EIA System: 1) revised and much simplified documentary requirement; 2) Certificate of Non Coverage (CNC) application is no longer required to submit a Project Description Report (PDR); 3) conduct of scoping session with stakeholders; 4) greater participation of LGUs in the EIA process; and 5) significantly shortened time period for the processing EIS and IEE documents submitted for the acquisition of Environmental Clearance Certificate (ECC). The latest MC issued by EMB is on “Incorporating Disaster Risk Reduction (DRR) and Climate Change Adaptation (CCA) concerns in the Philippine EIS System (MC 2011-05).” It is under this MC that the preparation of IEE Report is no longer required. Instead, the proponents will just need to fill-out and prepare their IEE checklist report using the prescribed checklist template provided by EMB. Moreover, it provides a revised list of criteria/limits/thresholds for classifying projects into those which would require the submission of EIA, IEE or CNC.

The requirements, process and procedures provided in this manual are applicable to proposed new LGU PPP projects. Hence, only the guidelines, rules and regulations of the Philippine EIA that pertain to proposed new projects are adopted in this manual. The applicable safeguard policies and tools of international lending institutions are also considered in the guidelines. Pursuant to these requirements, the LGUs may adopt measures to ensure compliance by their contractors by including environmental and social impacts provisions in their PPP contract.

Aside from complying with the requirements of the Philippine EIA laws, as a proponent of PPP projects the LGUs should be aware that they also have inherent responsibilities under the EIA law to perform the following tasks:
a. Screening of proposed project for issuance of location clearance;
b. Conduct IEC to inform the public about the proposed project;
c. Participate in the scoping of issues that may be brought about by the project;
d. Conduct public consultation and hearing with the DENR on the issues and acceptability of the proposed project;
e. Mediate or facilitate the resolution of conflicts; and
f. Conduct project monitoring to ensure compliance of the project with ECC conditions,

**EIA Definition**

EIA is a process that involves predicting and evaluating the likely impacts of a project including cumulative impacts on the environment during construction, commissioning, operation and abandonment. It also includes designing appropriate preventive, mitigating and enhancement measures addressing these consequences to protect the environment and the community’s welfare.

**EIA System Purpose and Objectives**

The primary purpose of the EIA System is to enhance planning and guide decision-making in the preparation, design and implementation of development projects. Through the EIA process, adverse environmental impacts of projects are assessed and reduced through proper siting, design and formulation of environmental management and monitoring plans. The EIA is both a planning and a regulatory tool that is established to ensure that development projects will not cause undue harm but rather conserve, protect and enhance the environment and the quality of life of the people. The EIA system is meant to safeguard the environment and the human population therein while making the long-term operation of the project sustainable. Thus, the EIA is a tool to enhance environmental sustainability of the project.

**Environmental Sustainability of LGU PPP Projects**

PPP projects, particularly key infrastructure facilities, for LGUs are critical capital assets funded from scarce LGU resources. Therefore, such assets must be protected, preserved and maintained and sustained not only to maximize the economic and financial returns of such LGU investment but more importantly because these facilities provided critical and vital public services and goods that have greater social and economic impacts to constituencies of an LGU.

The threats and risks posed by climate change-related extreme weather conditions and disasters are becoming frequent and increasing that may result into the destruction of many of these vital local infrastructures if not properly attuned or related to environmental, geophysical and climatological conditions where such projects would be established.

The conduct and assessment of critical environmental studies, including climate change and disaster risks and vulnerabilities, biodiversity impact, air/water/noise pollution, geo-hazard threats, land conversion, aesthetic and cultural/historical considerations must be integrated into the project identification, preparation, design, and implementation stages for all proposed LGU PPP projects.
Outputs and results of these studies should serve as inputs to the preparation and formulation of environmental/resource management plans, climate change and disaster risk mitigation/adaptation measures, land use planning and zoning ordinance enhancements/revisions, and compliance to other environmental laws and permitting requirements such as the EIA system. Plans, programs and activities identified through these studies and assessments should be integrated into the preparation of the project’s proposed financial and economic estimates over the project’s lifetime.

For sustainability purposes, the new EMB Memorandum Circular 2011-05 mandates the integration of Disaster Risk Reduction (DRR) and Climate Change Adaptation (CCA) concerns in the Philippine EIS System. The new guidelines for MC 2011-05 were formulated to ensure that development projects will anticipate, avoid and mitigate the impacts of natural hazard- and climate-related factors.

**Project Cycle and Environmental Considerations**

In the cycle of project development, there are important environmental and social considerations that must be accounted for to ensure that the project will be sound and sustainable. The project cycle and the environmental and social considerations that are also embodied in the Philippine EIA System are described in Box 1. This framework for integrating environmental and social concerns in the various stages of project preparation also applies to the LGU PPP projects.

**Box 1: Project Cycle and Environmental Considerations**

<table>
<thead>
<tr>
<th>Project Cycle</th>
<th>EIA Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Concept/Pre-feasibility studies</td>
<td>Screening if project is covered by Philippine EIS system</td>
</tr>
<tr>
<td></td>
<td>• If covered: determine requirements for EA application process</td>
</tr>
<tr>
<td></td>
<td>• Undertake initial rapid site and impact assessment to determine</td>
</tr>
<tr>
<td></td>
<td>criticality of project</td>
</tr>
<tr>
<td></td>
<td>Conduct scoping of issues</td>
</tr>
<tr>
<td>Feasibility studies</td>
<td>Conduct detailed environmental impact assessment</td>
</tr>
<tr>
<td></td>
<td>Prepare Environmental management plan</td>
</tr>
<tr>
<td></td>
<td>Provide inputs on costs and benefits into the FS</td>
</tr>
<tr>
<td></td>
<td>Final project option on siting and design</td>
</tr>
<tr>
<td></td>
<td>Submission of EIA document</td>
</tr>
<tr>
<td></td>
<td>Issuance of decision document and conditionalities</td>
</tr>
<tr>
<td>Detailed Engineering Design</td>
<td>Post ECC, detailed mitigation measures and technology</td>
</tr>
<tr>
<td></td>
<td>Baseline data for monitoring are gathered</td>
</tr>
<tr>
<td>Project Construction/Development</td>
<td>Implementation of mitigation measures</td>
</tr>
<tr>
<td>Project Operation and Maintenance</td>
<td>Monitoring, validation and evaluation or audit of ECC compliance</td>
</tr>
<tr>
<td></td>
<td>Updating of Environmental management plan</td>
</tr>
</tbody>
</table>
**EIA Phases**

In preparing the EIA documents required under the EIA law, the LGU must be guided by the different stages in the Philippine EIA process. These six stages include: 1) Screening of Potential Impacts, 2) Scoping of Environmental Issues, 3) EIA Study and Report Preparation, 4) EIA Report review and Evaluation, 5) Decision making, and 6) Monitoring, Validation, Evaluation and Audit. Details on these stages are provided in Box 2.

### Box 2. Stages in the EIA Process

<table>
<thead>
<tr>
<th>EIA Process</th>
<th>Brief Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Screening</td>
<td>Determines whether the proposed project is covered by the EIA system. If covered, the type of EIA document that should be prepared and the kind of permit that needs to be secured are identified.</td>
</tr>
<tr>
<td>Scoping</td>
<td>The important issues and concerns of stakeholders are identified to serve as the basis for preparing the focus of the EIA study. The result of the scoping also determines the need for the conduct of Environmental Risk Assessment (ERA). This activity is done with the DENR and the stakeholders with the resulting product as a Scoping Checklist approved by the EMB.</td>
</tr>
<tr>
<td>EIA Study and Report Preparation</td>
<td>The main bulk of the activities are undertaken here. The study involves the design and description of the project, the characterization of its upstream and downstream environment and the people affected the projected positive and significant negative impacts of the project’s pre-construction, construction and operation stages, identification of the mitigation measures and preparation of the Environmental Management Plan with cost estimates and institutional arrangements.</td>
</tr>
<tr>
<td>EIA Report review and Evaluation</td>
<td>The EIA report is reviewed by the EMB’ review committee following its prescribed procedures and standards. The public’s inputs during consultations and hearings are weighed by the review committee. The review committee prepares and submits its recommendations to the DENR and EMB’s deciding authority.</td>
</tr>
<tr>
<td>Decision making</td>
<td>The deciding authority (the EMB Regional Director, EMB Executive Director, or DENR Secretary depending on the EIA document being evaluated) will make a decision given the prescribed timeline to issue the necessary clearance permits or denial letter. The permits issued may be an ECC, CNC or denial letter.</td>
</tr>
<tr>
<td>Monitoring, Validation, Evaluation and Audit</td>
<td>The performance of the proponent is evaluated against the ECC conditionalities and its commitment in the Environmental Management Plan. A monitoring and evaluation plan is prepared for this purpose and a Multi-partite monitoring team is designated comprising of the EMB, LGU and Civil Society representatives.</td>
</tr>
</tbody>
</table>

**Environmental Categorization of Projects**

Pursuant to the EIA Law (PD 1586, 1978), the EIS System covers all development projects which are classified as Environmentally Critical Projects (ECPs) or those projects that are located in Environmentally Critical Areas (ECAs) that have potential significant negative impacts on the environment and the human population. Projects which have no potential significant negative impacts on the environment and the population are classified as Non Covered Projects (NCPs). These projects are usually small scale projects at the local level. There are 4 types of ECP projects and 12 categories of ECAs (as declared by Proclamation No. 2146, 1978). Technical Notes 1 provides the list of ECPs, ECAs and NCPs.
For projects declared by the proponent to be not located in ECA (i.e., NECA) would have to show proof that would be validated by the DENR or other authorized agencies under the EIA System regulations.

The EIA law does not exclude from the EIA coverage those non-environmentally critical projects (NECPs) which when located in ECAs may have significant negative impacts. On the other hand, certain projects which regardless of their location have been established not to produce negative impacts, because of their inherent clean technology and their very nature, are not covered under the EIA system.

**Project Groupings**

In its most recent procedural guidelines (DENR Administrative Order No. 30 Series of 2003, MC 2010-14 and MC 2011-05), single projects have been classified into 3 major groups as follows:

1. Group 1. ECPs in either ECAs or NECAs (Environmentally Critical Projects in either Environmentally Critical Areas or Non-Environmentally Critical Areas. These projects would require the submission of EIA.
2. Group 2. NECPs in ECAs (Non-Environmentally Critical Projects in Environmentally Critical Areas). These projects would require the submission of IEE checklist report. It may be required to proceed with the submission of EIA if significant impacts are identified in the IEE.
3. Group 3. NECPs in NECAs (Non-Environmentally Critical Projects in Non-Environmentally Critical Areas). These projects are not required to submit IEE or PD but instead are required to submit a Certificate of Non Coverage (CNC) form.

**EIA Reports and Contents**

From the foregoing discussion, there are four types of EIA reports that are required for submission to EMB depending on the type of projects. Table 1 shows the project types, EIA document required, permit required the processing official, the deciding authority and the maximum time to grant or deny ECC.

<table>
<thead>
<tr>
<th>Project Type</th>
<th>EIA Document Required</th>
<th>Permit Required</th>
<th>Processing Official</th>
<th>Deciding Authority</th>
<th>Maximum Time to Grant or Deny ECC (Working Days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECPs</td>
<td>EIA Report</td>
<td>ECC</td>
<td>EMB Central Office</td>
<td>EMB Director/DENR Secretary</td>
<td>40 days</td>
</tr>
<tr>
<td>IEE Checklist Report</td>
<td>ECC</td>
<td>Regional Office: EIAMD Chief</td>
<td>EMB Regional Director</td>
<td></td>
<td>20 days</td>
</tr>
<tr>
<td>PD Report</td>
<td>ECC</td>
<td>Regional Office: EIAMD Chief</td>
<td>EMB Regional Director</td>
<td></td>
<td>15 days</td>
</tr>
</tbody>
</table>

**Table 1: EIA Reports, Processing Time and Permit Requirements**

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<table>
<thead>
<tr>
<th>New Enhancement &amp; Mitigation Projects</th>
<th>PDR (Required)</th>
<th>CNC</th>
<th>Regional Office: EIAMD Chief</th>
<th>EMB Regional Director</th>
<th>15 days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other types of projects</td>
<td>PDR (Optional)</td>
<td>CNC</td>
<td>Regional Office: EIAMD Chief or Central Office EIAMD Chief</td>
<td>EMB Regional Director</td>
<td>15 days</td>
</tr>
<tr>
<td>Unclassified (New) Projects</td>
<td>PDR (Required)</td>
<td>CNC &amp; Recommended Category</td>
<td>Regional Office: EIAMD Chief</td>
<td>DENR Secretary or EMB Central Office Director or EMB Regional Director</td>
<td>15 days</td>
</tr>
<tr>
<td>Co-located Projects (New)</td>
<td>Programmatic EIS</td>
<td>ECC</td>
<td>Central Office EMB</td>
<td>EMB Director/ DENR Secretary</td>
<td>40 days</td>
</tr>
</tbody>
</table>


The EIA Report is composed of ten (10) major sections:

- Executive Summary
- Section I Project Description
- Section II Key Environmental Impact and Management / Monitoring Plan;
- Section III Environmental / Ecological Risks Assessment;
- Section IV Impact Management Plan;
- Section V Social Development Framework (SDP) and IEC Framework
- Section VI Environmental Compliance Monitoring
- Section VII Emergency Response Policy and Generic Guidelines
- Section VIII Abandonment / Decommissioning / Rehabilitation Policy
- Section IX Institutional Plan for EMP Implementation

**EIA Submission, Review and Decision**

When the EIA reports are submitted, they are processed for completeness by the EMB offices whether the Central or Regional office depending on the type of EIA document submitted as indicated in Table 1 above. When the submitted document is certified to be complete, the countdown for review and approval begins to apply. A review committee comprising of technical experts makes final evaluation of the document and recommends to the EMB officials (Regional EMB Director, EMB Executive Director or DENR Secretary depending on the type of the EIA report evaluated), the issuance of ECC, Certificate of Non Coverage (CNC) or denial letter.
The ECC issued contains the conditions set by the EMB based on its rules and regulations and environmental quality standards to conserve and protect the environment and ensure the safety of population affected. Compliance to ECC by the project is monitored by the EMB or its designated monitoring and evaluation team and/or committee. Violations of the ECC will penalize the project owners and may even lead to a halt of their operations. Moreover, an environmental insurance fund may be provided for in the PPP contract.

The validity of the ECC is throughout the lifetime of the project. If the project is not implemented within five years upon issuance of the ECC, the ECC automatically expires unless a request was made for its extension three months before its expiration.

The CNC certifies that, based on the submitted CNC application form, the project is not covered by the EIS System. No ECC is therefore required for the project.

The Denial letter contains the explanation why the proposal was not approved. These proposed projects pose significant irreversible and irretrievable negative impacts on the environment and the population.

**Alternatives**

A high level preliminary Environmental Impact Analysis (EIA) should be carried out for each implementation alternative, using a consistent methodology so that the alternatives can be compared with each other in relative terms. Where applicable, a preliminary EIA should also be carried out for the "Do-Minimum" scenario, so that changes in impact resulting from construction and operation of the various alternatives can be compared against changes that would occur if the scheme were not implemented.

**B. INDIGENOUS PEOPLES**

**Philippine Law on the Protection of Indigenous Peoples Rights**

A law was enacted in 1997 by the Philippine legislature that recognizes, protects and promotes the rights of Indigenous Peoples. This law is otherwise known as the Indigenous Peoples Rights Act (IPRA) or Republic Act 8371.

Under the IPRA, Indigenous Cultural Communities/Indigenous Peoples refers to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.
The rights of the IPs as defined in the relevant provisions of the IPRA law would serve as the framework in this manual for examining the potential adverse impacts of proposed PPP projects on their culture and overall quality of life.

**Screening of PPP Proposed Projects**

PPP projects that affect Indigenous Peoples (IPs) should be thoroughly screened and evaluated by the proponent and IP leaders with technical assistance or guidance from anthropology experts or consultants in order to safeguard IPs interest and various rights. Examples of these projects are the construction of multi-purpose dams, major roads and highways, upland orchards and tree farms, and settlements development, among others. At the LGU level, the projects that may affect IPs include airports and ports, tourism development and other physical infrastructure construction within or near their ancestral lands and water such as lakes, coastal waters, and forest areas. Hence, such types of projects should be designed in such a way that is supportive of their culture, livelihood systems, and property rights.

Proposed PPP project development and implementation must comply with the relevant provisions of the IPRA law.

Various international lending institutions also promote the protection and enhancement of Indigenous Peoples' cultural rights and quality of life such as the Safeguard Policies of ADB and the World Bank, and the Performance Standards set by international private banks. Project types that usually access international lending institutions are large capital projects such as major infrastructure projects. At the LGU level, the projects that usually avail of foreign funding includes flood control and drainage improvement, roads, airports and ports, sanitary landfill, sewerage system, water supply, industrial, agriculture and estate development.

When IPs culture, dignity, human rights, livelihood system, cultural resources, or ancestral lands are threatened directly or indirectly affected by the proposed project, a thorough social impact assessment is required. The measures to avoid or minimize the negative impacts on IPs are included in the Indigenous Peoples Plan (IPP) that must be prepared as part of the documentary requirement of the PPP project proposal.

Mainstreaming Indigenous Peoples in project development and implementation involves: a) their participation in planning and decision making; b) making sure that they benefit from the project; and c) that they are not in any way adversely affected by the project. Hence, PPP projects that will affect Indigenous Peoples are classified by ADB (2009) into the following types:

1. **Category A.** These are projects that would most likely to have significant impacts on Indigenous Peoples. An Indigenous Peoples plan (IPP), including assessment of social impacts, is required.
2. **Category B.** These projects are likely to have limited impacts on Indigenous Peoples. An IPP, including assessment of social impacts, is required.
3. **Category C.** These projects are not expected to have impacts on Indigenous Peoples. No further action is required.
General Procedures for Impact Assessment to be conducted by the project proponent with the oversight of the PPP Center and technical review by the Commission on Indigenous Peoples are as follows:

1. Identify the presence of IPs in the project site
2. Determine whether the project operations will affect directly or indirectly the IPs in the site or neighboring areas
3. Inform the IPs on the proposed PPP project
4. Conduct scoping of issues with IP leaders and representatives
5. Identify the potential adverse impacts of the project on the IPs using an impact assessment checklist
6. Gather baseline data for further analysis of impacts on the socioeconomic, cultural and environmental concerns of IPs
7. Determine the significant impacts of the proposed project
8. Categorize the project using ADB category for IPs
9. Determine whether the project would require an EIA, IEE or PD
10. Propose measures to avoid or mitigate the significant impacts of the project
11. Prepare the IPP Plan for Category A and B projects
12. Integrate the IP Plan in the EIA or IEE document
13. Consult the IP leaders on the proposed IP plan
14. Obtain proofs on the acceptability of the project to IPs owning titled ancestral lands
15. Secure consent and agreement or documented covenants with the IPs for the implementation of the project that will affect their properties and customary rights
16. Involve the IP representatives in monitoring of the project’s compliance to the agreement/covenant and IP Plan
17. Prepare implementation arrangements for the IP Plan
18. Prepare Monitoring and Evaluation System
19. Estimate budget requirements
20. Monitor and evaluate the benefits of the project to IPs
**Checklist for Identifying Potential Impacts of PPP Projects on IPs**

PPP proposed projects should be screened for their significant impacts on IPs in terms of the following:

**Table 2: Checklist for Screening Potential Impacts of PPP Projects on IPs**

<table>
<thead>
<tr>
<th>Socioeconomic, environmental and cultural factors</th>
<th>Type of impacts</th>
<th>Magnitude of impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Negative</td>
<td>Positive</td>
</tr>
<tr>
<td>Cultural properties and ancestral lands</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Access to natural resources</td>
<td></td>
<td></td>
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<tr>
<td>Settlements and housing</td>
<td></td>
<td></td>
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<tr>
<td>Entry of Migrants</td>
<td></td>
<td></td>
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<tr>
<td>Safe and Clean Air and Water</td>
<td></td>
<td></td>
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<tr>
<td>Local institutions and decision making</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious, Cultural Sites and Ceremonies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Archeological sites and artifacts</td>
<td></td>
<td></td>
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<tr>
<td>Cultural heritage</td>
<td></td>
<td></td>
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<tr>
<td>Indigenous knowledge</td>
<td></td>
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<tr>
<td>Health and sanitation</td>
<td></td>
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<tr>
<td>Water</td>
<td></td>
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<tr>
<td>Education</td>
<td></td>
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<tr>
<td>Employment and Livelihood</td>
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<tr>
<td>Transportation</td>
<td></td>
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<tr>
<td>Food security</td>
<td></td>
<td></td>
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<tr>
<td>Peace and security</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Examples of Potential Significant Impacts from Development Projects on IPs that would require the preparation of IPP are:

1. Intrusion or encroachment on ancestral lands and customary resources
2. Threats to languages, cultures, religions, spiritual beliefs, and institutions.
3. Loss of natural resource-based livelihoods
4. Loss of access to natural resources
5. Severe degradation or destruction of cultural heritage
6. Defacement, removal or destruction of artifacts
7. Decline or loss in food production
8. Displacement and relocation of communities
9. Pollution of water sources (lakes, rivers) and ambient air
**Outline of an IP Plan (IPP)**

An IPP is required for PPP projects with significant impacts on Indigenous Peoples to ensure that proper safeguards are designed and implemented together with the implementation of the project.

The proposed outline for a prototype IPP is as follows (World Bank, 2005, 2011, ADB, 2009):

1. Legal and institutional framework
2. Indigenous Peoples profile
3. Description of the project
4. Assessment of Potential Impacts of the Project to IPs
5. Avoidance and Mitigation Measures
6. Consultation and Agreement or covenants with IPs
7. Implementation Plan for IPP
8. Grievance Redress Mechanism
9. Monitoring and Evaluation System
10. Financial Requirements

The other important components of the IP plan are the following (World Bank, 2005):

1. Summary of social assessment
2. Summary of results of the free, prior, and informed consultation.
3. Action plan of measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate
4. Action plan on avoidance and mitigation measures on adverse effects of the project
5. Cost estimates and financing plan for the IPP
6. Accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation
7. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP

A brief description of the IPP general outline is provided in Technical Notes 2.

**Consultation and Informed Participation**

The IPs affected by the project should be involved in a process of “free, prior and informed consultation” in accordance with the IPRA law. They should be given the necessary information and briefing about the project to solicit their comments and know their apprehension so that facts can be given to them about project benefits and potential adverse impacts, and proposed mitigation or avoidance measures. The IPs have the right to make decision on projects affecting them. The results of the consultation shall be documented through a signed covenant between the IPs and the proponent or implementing agencies and private partners. The PPP Center may also attest to the signing of the covenant.
Experts on anthropology, ancestral lands, environment and natural resources, etc. from the academe, reputable research institutions and NGOs should be engaged in the process by the PPP Center to explain properly to the IPs the issues and concerns that they will raise and the results of the impact assessment.

The IPs should also be appraised of their rights under IPRA so that they can knowledgeably and confidently participate and make better decisions concerning the sociocultural and environmental soundness of the proposed project.

**Consent of Affected IPs and Agreements on proposed Project**

Some projects may have unintended adverse effects on the IPs cultural practices, property rights, and socioeconomic conditions. Thus, the potential impacts of proposed projects need to be thoroughly examined together with the IPs. Participation of IPs will facilitate communication and understanding of the potential adverse impacts of the projects, how to mitigate or avoid these impacts and the benefits that they will derive from the project. Through the involvement of the IPs in the project development cycle, they will be in a better position to judge and make decisions on whether to give or not their consent and agreement in the implementation of the project. In case of disagreement on certain terms of the project such as the design, location, IPP, further negotiations with the IPs may be undertaken by the proponent. As much as possible, the proponent should avoid the physical displacement of IPs by exploring alternative project designs. When avoidance is impossible, a resettlement package that is acceptable and meeting the requirements of the IPs must be provided and properly executed. If possible, the plan will also allow the relocated IPs to return to their ancestral lands when the reasons for their relocation cease to exist. The consent and agreement between the proponent and the IPs shall be documented in a signed covenant.

**Grievance Redress Mechanism**

The proponent should establish a mechanism whereby IPs complaints and grievances can be discussed and resolved. The mechanism should be easily accessible and sensitive to the culture and traditions of the IPs to facilitate resolution of issues. The main purpose of the Grievance Redress committee that should be created by the proponent is to resolve and settle amicably conflicts in interest and other undesirable impacts of the project on the stakeholders. Nonetheless, the option for the IPs and those other affected to seek remedies in court should remain open if the complaints cannot be resolved through amicable settlement by the Grievance Facility. The existence of the mechanism should be communicated well to the IPs including the protocols for their access and resolution of cases.

**Monitoring, Evaluation and Reporting**

It is the responsibility of the proponent with the oversight of the PPP Center to establish a monitoring, evaluation and reporting system wherein IP representatives can participate. The system should be able to monitor, capture and measure the progress of the implementation of the IPP and the complaints or satisfaction of the IPs on the way the project is constructed and operated.

The system should be able to monitor the compliance of the project to the IPP and the actual impacts of the project on IPs cultural and socioeconomic welfare. A Multi-partite monitoring team consisting of representatives from the LGU, IPs and concerned government development agency should be organized and be provided logistical and financial support to conduct the monitoring and reporting. Periodic reports should be submitted to the PPP Center and LGU.
C. GENDER

Mainstreaming Gender

In order to mainstream gender and development in projects one can commence by utilizing the Harmonized Gender and Development Guidelines for Project Development, Implementation, Monitoring and Evaluation, a project of the National Economic Development Authority; the National Commission on the Role of Filipino Women (now Philippine Commission on Women), and the Official Development Assistance Gender and Development Network (ODA-GAD Network).

Now in its second edition (November 2007), these guidelines evolved from Women in Development (WID) to Gender and Development (GAD) to the current focus on women’s rights, and is a collective result of the suggestions of many earlier Philippine government users.

The GAD guidelines focus on three main aspects: a) process; b) strategies; and c) results of integrating gender equality and women’s empowerment concerns in various stages of the project cycle. They have been formulated as minimum requirements but are open to the introduction of additional requirements to fit priorities and policies. Any expansion of the checklists needs to observe the core requirements contained in the guidelines.

Concepts and Principles

Key GAD concepts are identified in the guidelines mentioned above. Some basic terminology is discussed below:

Gender: According to the harmonized guidelines, gender is a shortened form of the phrase “social relations of gender”, which seeks to make evident and to explain the global symmetry that appears in male-female relations in terms of power sharing, decision making, division of labor, and return to labor both within the household and in society.

Gender analysis: It is an examination of a problem or situation in order to identify gender issues within the context of a project, and the obstacles to the attainment of gender equality or similar goals.

Gender issue: Arises when gender inequality is recognized as undesirable or unjust.

Gender discrimination: Differential treatment given to individuals on the basis of their gender. This generally involves bias against women in the distribution of income, access to resources, and participation in decision making.

Gender roles: These are roles in a society or culture that defines or constructs a female or male.
Principles: Reiterating from the Harmonized Gender and Development Guidelines, the GAD guidelines subscribe to the idea that development involves the expansion of freedoms and strengthening of capabilities. It has been recognized that:

1. Equality between men and women is a key women’s human rights;
2. Participation in development is crucial to the empowerment of women and men;
3. Gender equality means promoting the equal participation of women as agents of economic, social, and political change; and
4. Achieving equality between women and men may involve the introduction of specific measures designed to eliminate prevailing gender inequalities and inequities.

**Key Processes and Steps, and Outcomes**

The key processes and activities involved in addressing gender and development requirements of project are as shown below:

<table>
<thead>
<tr>
<th>Table 3: Key Processes and Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Key Processes and Steps</strong></td>
</tr>
<tr>
<td><strong>Project Identification</strong></td>
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<tr>
<td><strong>Project Design and Formulation</strong></td>
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<tr>
<td>Commitment of resources to activities and interventions</td>
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<td>--------------------------------------------------------</td>
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<tr>
<td><strong>Investment Program Formulation</strong></td>
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<tr>
<td><strong>Evaluation of Proposed Projects</strong></td>
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</table>


**Key Tools**

The key tools recommended for use under the Harmonized Gender and Development Guidelines in gender and development planning, implementation, monitoring and evaluation include checklists identified in the succeeding part of this document. No specific analytical frameworks have been identified and recommended but the following maybe explored depending on their cultural applicability:

- The Harvard Analytical Framework, also known as the Gender Roles Framework
- The Moser Gender Planning Framework
- The Gender Analysis Matrix (GAM)
- The Women’s Empowerment Framework (WEP)
- The Social Relations Approach

**Key References**

In the Philippines, the key reference for undertaking gender and development planning, implementation and monitoring and evaluation is Harmonized Gender and Development Guidelines for Project Development, Implementation, Monitoring and Evaluation prepared under a technical assistance grant from the Asian Development Bank. Its content is for the most part that of the National Economic and Development Authority (NEDA) and the then National Commission of Filipino Women (NCRFW), now Philippine Commission of Women. These guidelines come with pullout checklists.
D. LAND ACQUISITION AND RESETTLEMENT

Concepts and Objectives

Land acquisition and resettlement activities should be undertaken at an early stage. At feasibility study stage define, cost and budget implementation activities and ideally acquire required land or ROW prior to tender.

Land acquisition and resettlement may either be voluntary or involuntary. It is voluntary when an affected person is willing to sell the property concerned. It is considered involuntary when displaced individuals or communities are compelled to give up their property. This occurs in cases where (i) lands are acquired through expropriation based on eminent domain; and (ii) lands are acquired through negotiated settlements.

Key Processes and Steps, and Outcomes

The key processes and activities involved in undertaking involuntary resettlement and bringing about a successful outcome are shown in the following table:

<table>
<thead>
<tr>
<th>Key Processes and Steps</th>
<th>Key Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Design</strong></td>
<td></td>
</tr>
<tr>
<td>Define the project and its objectives</td>
<td>Clear understanding of the project and its objectives</td>
</tr>
<tr>
<td>Identify project Impacts</td>
<td>Identification and determination of the extent of the resettlement impacts</td>
</tr>
<tr>
<td>• Number of affected persons</td>
<td></td>
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<tr>
<td>• Loss of Land</td>
<td></td>
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<tr>
<td>• Loss of Livelihood</td>
<td></td>
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<tr>
<td>• Loss of Dwellings</td>
<td></td>
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<tr>
<td>• Loss of Access to Resources</td>
<td></td>
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<tr>
<td>• Others</td>
<td></td>
</tr>
<tr>
<td>Identify alternatives to minimize involuntary resettlement</td>
<td>Avoidance or minimization of resettlement impacts.</td>
</tr>
<tr>
<td>Establish alignment design considerations</td>
<td></td>
</tr>
<tr>
<td><strong>Resettlement and Action Planning</strong></td>
<td></td>
</tr>
<tr>
<td>Prepare and agree on a Resettlement Policy Framework (RPF) or its equivalent</td>
<td>Where no resettlement policy exists, this framework provides a clear guide in the preparation of a resettlement action plan (RAP).</td>
</tr>
<tr>
<td>Identify the applicable laws that will appropriately address resettlement concerns</td>
<td>Legalizes the resettlement processes that will be followed as well as the compensation entitlements that the affected persons will receive following project displacement.</td>
</tr>
<tr>
<td>Establish a “Cut-off Date”</td>
<td>Prevents occupation or re-occupation of a target property or right-of-way after the consultation process and census.</td>
</tr>
<tr>
<td>Disclose RPF or its equivalent, and consult with affected persons</td>
<td>Inform project affected persons about the project, its potential impacts to their assets and livelihood, and corresponding entitlements based on eligibility criteria. Also hear suggestions and comments from project affected persons to further minimize impacts.</td>
</tr>
<tr>
<td>Conduct census and tagging of project affected persons</td>
<td>Identify the project affected persons who will be eligible to receive compensation.</td>
</tr>
<tr>
<td>Conduct Asset inventory / Detailed Measurement Surveys &amp; Valuation</td>
<td>Identify assets that will be affected and their replacement values based on actual measurements on the ground.</td>
</tr>
<tr>
<td>Conduct Socio-economic Survey of project affected persons</td>
<td>Establish the pre-project level (baseline condition) of the affected persons for purposes of measuring change after the project, and to further improve resettlement policy for future project implementation.</td>
</tr>
<tr>
<td>Conduct replacement cost survey</td>
<td>Establish unit costs reflective of current market condition to ensure that affected assets are restored or replaced to pre-project level or even better.</td>
</tr>
<tr>
<td>Verify replacement cost survey results</td>
<td>A third party review to ensure that the unit costs have been established transparently and accurately.</td>
</tr>
<tr>
<td>Conduct parcel land survey</td>
<td>Where land acquisition is involved, establish the accuracy of the dimensions of affected assets, and as also compliance with documentary requirements to properly transfer ownership.</td>
</tr>
<tr>
<td>Identify and plan relocation sites</td>
<td>Where resettlement sites may be necessary, determine the appropriateness of the site, and the development cost requirements that meet minimum standards provided by law or by advocacy groups.</td>
</tr>
<tr>
<td>Prepare RAP budget</td>
<td>Determine the extent of the financial requirements needed to implement the resettlement action plan, and to compensate affected persons and their assets.</td>
</tr>
<tr>
<td>Review RAP budget</td>
<td>Determine the accuracy of the RAP budget and ensure the appropriateness of the methodologies and basis of valuation in a transparent manner.</td>
</tr>
<tr>
<td>Establish the Resettlement Implementation Committee (RIC)</td>
<td>Formation of a gender-responsive LGU-based body including representatives of NGOs, People’s Organization, and representation from the project-affected persons that will be tasked to validate and implement the resettlement action plan.</td>
</tr>
<tr>
<td>Establish the Grievance Redress Committee</td>
<td>Formation of a gender-responsive LGU-based body including representatives of NGOs, People’s Organization, and representation from the project-affected persons that will be tasked to validate and resolve grievances or conflicts during the implementation of the resettlement action plan.</td>
</tr>
<tr>
<td>Prepare RAP implementation schedule</td>
<td>Target dates and milestones that serve as guide in the timely and successful implementation of a resettlement action plan.</td>
</tr>
<tr>
<td>RAP Review/approval</td>
<td>Legitimize the implementation of the resettlement action plan together with the allocation of the budget to effect timely delivery of compensation entitlements.</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Resettlement Action Plan Implementation</td>
<td></td>
</tr>
<tr>
<td>Validation</td>
<td>Where there is a delay in the implementation of the resettlement action plan.</td>
</tr>
<tr>
<td>Facilitate resolution of disputes on the computation of compensation and other grievances</td>
<td>Avoidance, minimization or resolution of grievance from affected persons.</td>
</tr>
<tr>
<td>Process payments</td>
<td>Delivery of compensation payments to affected persons.</td>
</tr>
<tr>
<td>Relocation site development, if necessary</td>
<td>Availability of relocation site acceptable to project affected persons.</td>
</tr>
<tr>
<td>Demolition of structures</td>
<td>Clearing of the right-of-way in a timely and orderly manner</td>
</tr>
<tr>
<td>Reporting</td>
<td></td>
</tr>
<tr>
<td><strong>Resettlement Action Plan Monitoring</strong></td>
<td></td>
</tr>
<tr>
<td>Internal Monitoring</td>
<td>RAP implementation compliance with the resettlement policy and resettlement action plan.</td>
</tr>
<tr>
<td>External Monitoring</td>
<td></td>
</tr>
<tr>
<td>Post-Implementation Evaluation Study</td>
<td>Measure change in the living condition of the project affected persons for purposes of further improving implementation of resettlement action plan of future projects.</td>
</tr>
</tbody>
</table>

**Key Tools**

The key tools used in resettlement planning includes: census, socio-economic surveys, and detailed measurement surveys.

Census: The census is used to collect detailed information on affected households and properties at the Project area. The information is collected for a full understanding of the project impacts in order to develop mitigation measures and resettlement plan for the affected persons. The objective of the census survey is to generate an inventory of all affected assets including land, crops, fruit and non-fruit trees, and structures/buildings and to compile a list of all affected families and people taking into account the social and economic impacts of land acquisition and resettlement.

Socio-economic Survey: The socio-economic survey is also conducted to get an overall picture and general characteristic of the affected area and profile of affected households (AHS).

Detailed Measurement Survey (DMS). The DMS is a detailed and precise inventory of affected assets that will be affected such as, but not limited to, the following:

- Land to be acquired for the project;
- Housing structure including dimensions, and construction materials used;
- Businesses and potential income losses;
- Trees and crops;
• Public infrastructures; and
• Other infrastructures

**Key References**

The key references for undertaking resettlement planning are as follows:

4. Involuntary Resettlement Sourcebook, World Bank (WB)

**Legal Framework for Resettlement in the Philippines**

LGUs need to understand and take into consideration these laws and issuances that address eminent domain, compensation, responsible parties, public information and consultation and grievance redress. The key legal and administrative instruments currently in force in the Philippines relating to Involuntary Resettlement are given below:

A. The Philippine Constitution (1987)

1. Article III, Section 1: “No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the law”; Section 9: “Private property shall not be taken for public use without just compensation”;
2. Article XII, Section 5: “The State…shall protect the rights of indigenous cultural communities to their ancestral lands to ensure economic, social and cultural well-being. By an act of Congress, customary laws governing property rights or relations can be applied in determining the ownership and extent of ancestral domain.”
3. Article XIII, Section 10: “Urban or poor dwellers shall not be evicted nor dwellings demolished, except in accordance with the law and in a just and humane manner. No resettlement of urban or rural dwellers shall be undertaken without adequate consultation and the communities where they are to be relocated.”

B. Republic Act 7279 (1992) "Urban Development and Housing Act" mandates the provision of a resettlement site, basic services and safeguards for the homeless and underprivileged citizens.

C. Republic Act 7160 (1991) "Local Government Code" which allows the local government units to exercise the power of eminent domain for public use.

D. Republic Act 6389 (1971) describes disturbance compensation equivalent to five times the average of the gross harvests on landholding during the last five preceding calendar years.
E. Republic Act 7835 (1994) describes the National Shelter Program Implementation/Resettlement Program. The National Housing Authority shall acquire land and develop it to generate serviced home lots for families displaced from sites earmarked for government infrastructure projects, those occupying danger areas such as waterways, esteros, railroad tracks and those qualified for relocation and resettlement under RA 7279.

F. Indigenous Peoples' Rights Act (IPRA) 1997. "Consent" is required from affected indigenous peoples before any land taking and/or relocation from their ancestral domain by the Project. The IPRA, together with the Free and Prior Informed Consent (FPIC) Guidelines of 2006, will serve as the guiding framework on addressing IP issues.

**Eligibility and Cut-Off Date**

A Cut-off date is normally established and informed to the project affected persons to ensure that further illegal occupation or re-occupation of acquired properties or right-of-way are prevented, and avoided. PAPs found to be residing in, doing business or cultivating land, or having rights over resources within an affected property as of the cut-off date are the only ones eligible to compensation of lost assets. Persons making claims based on subsequent occupation after the Cut-off Date are not eligible for compensation and entitlements.

Eligible PAPs may fall under the following indicative categories:

1. **Landowners**
   a. Legal owners (agricultural, residential, commercial and institutional) who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership;
   b. Users of arable land who have no land title or tax declaration;
   c. Agricultural lessees;
   d. Holders of Certificate of Land Ownership Award (CLOA) granted under the Comprehensive Agrarian Reform Act; and
   e. Holders of free or homestead patents and Certificates of Land Ownership Award (CLOA) under CA 141, Public Lands Act.

2. **PAPs with Structures**
   a. Owners of structure who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership;
   b. Owners of structures, including shanty dwellers, who have no land title or tax declaration or other acceptable proof of ownership;
   c. Renters;
   d. Owners of structures including shanty dwellers with appended livelihood activities, who have no land title or tax declaration or other acceptable proof of ownership; and
   e. Owners of structure including shanty dwellers with appended livelihood activities, who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership.
Severity of Impacts

Affected assets that will be acquired for a project may include the entire asset or a portion of it. Compensation for such assets or properties depends on whether the entire property will be affected or just a portion following the impact severity defined as follows:

a. Severe - The portion of the property to be affected is more than 20% of the total land area and/or structures or even less than 20% if the remaining portion is no longer economically viable or it will no longer function as intended. The owner of this property shall normally be entitled to full compensation.

b. Marginal – the impact is only partial and the remaining portion of the property or asset is still viable for continued use. Compensation will be for the affected area only.

Mode of Compensation and Entitlement

1. Compensation per category of assets affected

The classification or categories of assets to be compensated shall include land, structures, other improvements and crops, trees and perennial crops.

Indicative compensation and entitlements provision for which the PAPs are eligible, per classification of assets affected are outlined below but subject to acceptability of implementing local government units (these are based on Safeguards requirements of multilateral finance organizations, and may differ significantly based on Commission on Audit rules and regulations).


i. The initial offer to the PAPs shall be based on the current zonal valuation of the Bureau of Internal Revenue for the area where the property is located. If not acceptable to the PAPs, the second offer shall be based on the current market value in accordance to section 5 and 6 of RA 8974.

ii. “Land for Land”, Land swapping if feasible, shall be provided in terms of a new parcel of land of equivalent market value or biophysical, at a location acceptable under zoning laws, whichever is larger, in a nearby resettlement or suitable area with adequate physical and social infrastructure. When the affected holding has a higher value than the relocation plot, cash compensation will cover the difference in value determined on the replacement cost basis.

iii. Holders of free patent homestead under CA 141, or the Public Lands Act will be compensated for improvements only at market rate pursuant to the provisions of RA 8974.

iv. Holders of Certificates of Land Ownership Award (CLOA) under the Comprehensive Agrarian Reform Act shall be compensated pursuant to the provisions of RA 8974.

b. Compensation for Structures

i. Compensation is determined by the concerned Appraisal Committee/Resettlement Implementation Committee (RIC). Compensation in cash will be at replacement cost for the affected portion of the structure, including the cost of restoring the remaining structure, with no deduction for salvaged building materials and depreciation.
c. Compensation for other improvements
   i. Compensation in cash at replacement cost for the affected portion of public structures to government or non-government agencies or to the community in case of a donated structure by agencies that constructed the structure.
   ii. Compensation to cover the cost of reconnecting the facilities such as water, power and telephone.

d. Compensation for Crops, Trees and Perennials
   i. Cash compensation for perennials of commercial value as determined by the DENR or the concerned Appraisal Committee/RIC.
   ii. Affected persons will be given sufficient time to harvest crops on the subject land.
   iii. Compensation for damaged crops (palay and corn) will be at market value at the time of taking. The compensation will be based on the cost of production per ha and pro-rated to the affected area.
   iv. Entitlement for fruit-bearing trees will be based on the assessment of Provincial or Municipal Agriculturist where the project is located.
   v. Unproductive fruit-trees and lumber species will be compensated based on Cost Approach which is the summation of estimated expenses such as; seedlings, labor and inputs (fertilizer, etc.).

2. Other types of Assistance or entitlements
   a. Disturbance Compensation - For agricultural land, affected lessees are entitled to disturbance compensation equivalent to five times the average of gross harvest for the past 3 years but not less than Php 15,000.00.

   b. Income Loss - For loss of business/income, the affected persons will be entitled to income rehabilitation assistance not to exceed Php 15,000.00 for severely affected structures or based on the latest copy of the affected persons’ tax record for the period corresponding to the stoppage of business activities.

   c. Inconvenience Allowance – With severely affected structures which require relocation and new construction, affected persons will be given Php 10,000.00.

   d. Rehabilitation Assistance – Skills training and other development activities equivalent to Php 15,000.00 may be provided in coordination with other government agencies if the present means of livelihood is no longer viable.

   e. Rental Subsidy will be given to affected persons s without sufficient additional land to allow the reconstruction of their lost house under the following circumstances:

      i. The affected properties are for residential use only.
      ii. The concerned persons were physically residing in the affected structures and land at the time of the Cut-off Date.
      iii. The amount will be given for the period between the delivery of house compensation and the delivery of land compensation.
f. Transportation Allowance or Assistance – Informal settlers in urban centers who opt to go back to their place of origin or be shifted to resettlement sites will be given transportation allowance.

**Indicative Entitlement Matrix**

Table 5 gives an example of an entitlement matrix. The entitlements should be based on potential resettlement impacts and corresponding compensation or other assistance, regardless of land tenure status. The actual entitlements will be determined following detailed design and parcel survey and in consultation with affected persons and other stakeholders. The entitlements will be enhanced, as necessary, and will be presented in detail in a Resettlement Action Plan (RAP) to ensure that losses are restored at least to pre-project condition, if not improved.
<table>
<thead>
<tr>
<th>Type of Impact</th>
<th>Application</th>
<th>Entitled Person</th>
<th>Entitlements</th>
<th>Regulation/ Guideline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land (Classified Agricultural/ Residential/ Commercial/ Industrial/ Institutional)</td>
<td>Severely Affected: More than 20% of the total landholding is lost or where less than 20% lost but the remaining land holding becomes economically unviable.</td>
<td>• PAPs with Transfer Certificate of Title (TCT) or tax declaration (Tax declaration can be legalized to full title) or who are covered by customary law; • Holders of CLOA granted under Comprehensive Agrarian Reform Act; and • Holders of free or homestead patents and Certificates of Land Ownership Award (CLOA) under CA 141, Public Lands Act.</td>
<td>PAPs will be entitled to: • Cash compensation at 100% replacement cost • If feasible, land for land will be provided in terms of a new parcel of land of equivalent productivity in a nearby resettlement area with adequate physical and social infrastructure. • Cash compensation for damaged crops and cost of production at market value at the time of taking. • Rehabilitation assistance in the form of skills training equivalent to the amount of Php 15,000.00 per family, if the present means of livelihood is no longer viable and the affected family will have to engage in a new income activity. • Disturbance Compensation – if agricultural land is severely affected the lessees are entitled to disturbance compensation equivalent to 5 times average of gross harvest for the past 3 years, but not less than PhP15,000.</td>
<td>DPWH LARRIPP/RA8974</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• PAPs without TCT; • Holders of free or homestead patents and Certificates of Land Ownership Award (CLOA) under CA 141, or the Public Lands Act;</td>
<td>• No compensation for land. • Compensated for improvements only. • Cash compensation for damaged crops at market value at the time of taking. • Agricultural lessors are entitled to disturbance compensation equivalent to 5 times the average of the gross harvest for the past 5 years but not less than Php 15,000.00.</td>
<td>DPWH LARRIPP/RA 8974</td>
</tr>
<tr>
<td>Marginally Affected: less than 20% of the total landholding is lost or where less than 20% lost but the remaining land holding still viable for use.</td>
<td>PAPs with TCT or tax declaration (Tax declaration can be legalized to full title); and Holders of CLOA granted under Comprehensive Agrarian Reform Act.</td>
<td>Cash compensation for the affected portion of the land at 100% replacement cost, Cash compensation for damaged crops at market value at the time of taking.</td>
<td>DPWH LARRIPP/RA 8974</td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
<tr>
<td>• Holders of free or homestead patents and Certificates of Land Ownership Award (CLOA) under CA 141, or the Public Lands Act</td>
<td></td>
<td>No compensation for land. Cash compensation for damaged crops (improvements) at market value at the time of taking.</td>
<td>DPWH LARRIPP/RA 8974</td>
<td></td>
</tr>
<tr>
<td>• PAPs without TCT</td>
<td>Cash compensation for damaged crops at market value at the time of taking. Agricultural lessors are entitled to disturbance compensation equivalent to 5 times the average of the gross harvest for the past 5 years but not less than Php 15,000.00.</td>
<td></td>
<td>DPWH LARRIPP/RA 8974</td>
<td></td>
</tr>
<tr>
<td>Structures (Residential, Commercial or Industrial/ Institutional) Severeely Affected: More than 20% of the total landholding is lost or where less than 20% lost but the remaining structure is longer function as intended or no longer viable for continued use.</td>
<td>PAPs with or without TCT or tax declaration (Tax declaration can be legalized to full title)</td>
<td>Cash compensation for entire structure at 100% of replacement cost. Rental subsidy for the time between the submission of complete documents and release of payment on land.</td>
<td>DPWH LARRIPP/RA 8974</td>
<td></td>
</tr>
<tr>
<td>Marginally Affected: Less than 20% of the total landholding lost or where the remaining structure can still function and is viable for continued use.</td>
<td>PAPs with or without TCT or tax declaration (Tax declaration can be legalized to full title)</td>
<td>Cash compensation for the affected portion of the structure at 100% of replacement cost.</td>
<td>DPWH LARRIPP/RA 8974</td>
<td></td>
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<tr>
<td>---</td>
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<td>---</td>
<td></td>
</tr>
<tr>
<td>Crops, Trees, Perennials</td>
<td>Owners</td>
<td>Cash compensation at current market value as prescribed by the concerned LGUs and DENR.</td>
<td>E.O. 1035 &amp; DPWH LARRIPP</td>
<td></td>
</tr>
<tr>
<td>Rent or Free use of buildings</td>
<td>Renters/APs Rent-free/APs</td>
<td>Compensation at replacement cost. Relocation assistance for loss of building/s.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business Income</td>
<td>Owner of business With ITR Without ITR</td>
<td>Allowance equivalent to 3 months income based on income tax or 3 months at local minimum wage.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wages</td>
<td>Affected wage earners</td>
<td>Wage earners</td>
<td>Rehabilitation assistance equivalent to 2 months actual wage.</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>----------------------</td>
<td>--------------</td>
<td>----------------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| Lack of economic opportunities | Unemployed women/wives | Women of PAPs | • Rehabilitation assistance  
  • Vocational training |
| Other Improvements | Severely or marginally affected | PAPs with or without TCT, tax declaration, etc. | PAPs will be entitled to:  
  Cash compensation for the affected improvements at replacement cost. |

Source: Adapted from the Draft Resettlement Policy Framework (RPF), Philippine Secondary National Roads Development Project (SNDRP) funded by the Millennium Challenge Corporation (MCC), 2011.

**Organizational Framework for the Delivery of Entitlements**

The agencies and institutions in the Philippines that will most likely be involved in resettlement activities local government units are as follows:

<table>
<thead>
<tr>
<th>Table 6: Agencies and Institutions Involved in Involuntary Resettlement in LGUs*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
</tr>
</tbody>
</table>
| Resettlement Implementation Committee                         | • Shall be composed of representatives from: City/Municipality, and affected barangays, PAPs  
  • Assist in following activities: validating list of PAPs; validate assets; monitoring and implementation of adopted LGU policy on resettlement where applicable; identify any indigenous people in PAP list; public information campaign, public participation and consultation; payment of compensation to PAPs; receive complaints/grievances from PAPs and other stakeholders and act accordingly; maintain records of all public meetings, complaints and actions taken to address grievances; assist in the enforcement of laws/ordinances regarding encroachments and squatting. |
| Local Government Units (LGUs)                                 | • Provides public infrastructure and services (RA 7160)  
  • Acquire lots, ROW or easements for infrastructure projects and programs (RA 7160)  
  • Implements resettlement sites (RA 7279)  
  • Provides basic services (RA 7279)  
  • Implements livelihood programs (RA 7279)  
  • Undertakes assessment of fair market value of real property (for purpose of taxation; RA 7160)  
  • Maintain assessment roles for real property  
  • Undertakes appraisal of structures/improvements |
| Presidential Commission for the Urban Poor (PCUP)             | • Issue clearances for demolition and eviction activities in national/local government projects  
  • Monitor all evictions and demolitions involving homeless and underprivileged citizens |
<p>| Bureau of Internal Revenue (BIR)                             | • Provides zonal valuation as basis for determination of just compensation |</p>
<table>
<thead>
<tr>
<th>National Housing Authority</th>
<th>• Acquires, develops and establishes relocation sites in anticipation of informal settlers potential displacement from future projects (RA 8974 IRR Sec 17)</th>
</tr>
</thead>
</table>
| Courts                    | • Issue Writ of Demolition to informal settlers (RA 8974 IRR Sec. 17)  
• Issue Writ of Possession of expropriated lands (RA 8974)  
• Determine “just compensation” to land/property owners (RA 8974 IRR Sec 13) |
| Department of the Interior and Local Government | • Extend full cooperation and assistance to the Implementing Agency (RA 8974 IRR Sec 17) |
| Philippine National Police | • Extend full cooperation and assistance to the Implementing Agency (RA 8974 IRR Sec 17) |
| HUDCC                     | • Overall coordination of agencies in the resettlement of informal settlers (RA 8974 IRR Sec 17) |
| Housing and Land Use Regulatory Board | • Provides development permits and regulates private housing developers which includes resettlement areas |
| Provincial or City Register of Deeds | • Records any ROW agreement, grant, sale or expropriation decisions on the property (RA 8974 IRR Sec 15) |
| Government Banks          | • Depository of initial payments of just compensation  
• Undertakes appraisal of affected properties at the request of DPWH  
• Accredits private sector appraisers that government agencies can tap to value affected properties |


**Relocation Option**

In consultations, LGUs should anticipate getting demands from informal settlers in the project site, certain standards on the relocation site and support services. In this regard, in addition to conducting a socio-economic survey of the informal settlers, the LGU should discuss with the National Housing Authority the minimum standards for resettlement proposed by the Urban Poor Alliance, a social movement consisting of non-government organisations, peoples’ organisations and individuals working for the rights of the urban poor sector to tenurial security and decent shelter.
These standards shall not bind the LGU to what is beyond its capacity to implement rather they serve as a starting point of discussion. The LGU shall facilitate the process of site identification by discussing available lands within their jurisdictions. The LGUs Comprehensive Land Use Plans (CLUPs) shall be reasonable references for this exercise.

<table>
<thead>
<tr>
<th>Minimum Standards for Resettlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Four major aspects must be considered in providing relocation sites for displaced communities: Site Selection, Social Preparation, Housing and Site Development, and Basic Services.</td>
</tr>
</tbody>
</table>

**Site Selection**

- Locations within municipalities and cities must first be considered as possible relocation sites. Only when all possibilities are explored that near city relocation is considered.
- Resettlement sites must be so geographically sound and away from health and environmental hazards.
- Resettlement must also be convenient for wage workers. In fact, the impact of transportation costs for wagers must be one of the criteria in selecting a relocation site.

**Social Preparation**

- General assemblies should be organized at the barangay level with representatives from concerned agencies (LGU, NHA, barangay) present.
- Enough time should be given between the scheduled demolition/relocation and the consultation with families.
- Ideal: 6 months preparation & demolition during summer.
- Options for livelihood & employment in & near the resettlement site should also be discussed.
- Affected families must be represented in committees form.
- Receiving LGUs should be included in the planning & initial stages of the resettlement process.
- Sending LGUs should give financial support to families moving out of their jurisdiction.
- “Trippings” should be continued.

**Housing Site and Development**

- Ideal: ready-to-occupy housing unit (4 walls, roof, door, functioning toilet with septic tank) is available upon transfer.
- Families must be allowed to stay in their place of origin if they will build their own houses; making people live in tents should be avoided.
- Roads to & within the resettlement site must be passable.
- Drainage must be functioning.
- Solid waste/garbage in the site must be regularly collected.
Basic Services

Water and Electricity
- Clear timeframe must be given to families to meet the requirements to have the service connected; this must be indicated in a MOA with service providers (Meralco, Manila Water/MWSS)
- Electricity connection should come first as most water connections need electricity to function (i.e., water pumps)
- It is preferred that the NHA includes this in their budget & should be included in the computation of the families’ monthly amortization
- It is suggested that 70% of the cost of having the electricity connected be shouldered by the developer.
- Meralco posts with transformers should be installed & “ready for use” in the relocation sites
- Water should be potable

Education
- New school buildings/classrooms should have been built & ready to accommodate additional students from the relocated families at the time of relocation
- Aim for the ideal teacher-student ratio of 1:40

Health
- One (1) health center for each relocation site with at least one (1) doctor, one (1) midwife, and trained health workers

Transportation
- Creation of a transportation route/ system, otherwise cities must provide free shuttle service

Livelihood
- Plans for livelihood should be supported by corresponding budgets
- Livelihood programs must go beyond training & must be able to supply credit
- A livelihood credit facility, ready to be accessed by qualified families; rules for accessing the facility must be made known prior to relocation
- Tap & contact MFIs committed to extending credit to the poor
- It has to be ensured that mechanisms for job creation on site must engender permanent and secure employment
- Allocate funds/ provide assistance to affected families for the inconvenience/disturbance resulting to their displacement

Source: Urban Poor Legislative Agenda
Technical Note 2

Appraising LGU PPP Projects

After a project concept has been transformed into a full-blown proposal with a corresponding feasibility study, the concerned LGU has to further assess the acceptability, relevance and responsiveness of the proposal based on community needs and priorities. Usually, this task is done by local government officials. However, the ideal process for the assessment should include key people in the community - most particularly those involved in and affected by the implementation and operation of a proposed project.

To avoid a biased, tapered and disjointed manner of discussing and assessing a proposed project that may eventually lead to its unwarranted rejection or delay in approval or adoption for implementation, it is essential that people tasked to assess proposals are guided objectively.

This Technical Note intends to provide an objective guide in assessing PPP project proposals. It covers all the different aspects of feasibility. Sample yet essential questions are presented below to serve as basis for accepting or identifying areas where a project proposal could be best improved. As much as possible, proposals should not be unduly and absolutely rejected solely based on a negative response to any of these essential questions. Rather, the proposals may be revised and further improved so that they meet the appraisal expectations and requirements.

A. MARKET ASPECTS

1. Are the goods and services to be produced by the project properly defined?
2. Are the beneficiaries of the project identified?
3. Were the latest required data set utilized? What years were covered by the data set? How are data sets validated and properly sourced or referenced?
4. Is there demand for the project? How was this validated with intended beneficiaries?
5. Are there similar services and facilities within the proposed coverage?
6. What were the assumptions used for the Market Study? Were these stated clearly in the study?

B. TECHNICAL ASPECTS

1. Does the project comply with proposed standards for facilities and services?
2. Does the costing utilize the latest prices of materials required for the project?
3. Is the project able to address the actual demand and need of the locality?
4. Are the technical descriptions of the project properly defined and explained?
5. Is there a plan for construction, installation and operation of the facility?
6. Is there a location map?
7. Is there a proposed building layout?
8. Are the technology, production processes, size and coverage, location and timing of implementation properly selected from among various and equally acceptable alternatives? Do they adhere to effectiveness and cost-efficiency?
C. Financial Aspects

1. Was the project able to comply with all required forms and templates for financial analysis?
2. Were all assumptions for the valuation of costs and revenues clearly specified vis-à-vis financial estimates? (i.e., FIRR, NPV, BCR). Are these reasonable, realistic and acceptable?
3. Does the financial evaluation adhere to the benchmark set by approving authorities and agencies?

D. Economic Aspects

1. Was the project able to comply with all required forms and templates for economic analysis?
2. Were all the possible secondary and intangible items, as well as externalities, identified and properly valued? Were all the development impacts of the project clearly identified and properly valued?
3. Were all assumptions clearly specified vis-à-vis financial and economic estimates? (i.e., BCR, EIRR, NPV, and sensitivity analysis). Are they reasonable, realistic and acceptable?
4. Does the economic evaluation adhere to the benchmark set by approving authorities and agencies?

E. Operational Aspects

1. Who will implement the project? Do they have the mandate, authority and capacity to implement it?
2. Who is the recipient organization of the facilities and services?
3. Is there an operational plan for the facility? Is there a production or delivery plan for the services?
4. Does the project provide a description of troubleshooting mechanisms for operational problems in the future?
5. Can the recipient organization of the LGU sustain the cost requirement for operating the facility?

F. Political Acceptability and Legality of a Project

1. Does the Local Chief Executive support the project?
2. Do the local leaders support the project?
3. Were all the concerns of potential opposing forces to the operation of the project properly addressed in the project’s implementation and operational plans? Do they support the project?
4. Does the project adhere to the vision, mission, goals and objectives set out in the local development plan?
5. Is the project, in part or in its entirety, identified under the local investment program?

G. Social and Environment Soundness of the Project

1. What is the extent and impact of the environmental risks and threats of the project to the community and surrounding environment?
2. Are the perceived and identified threats and risks sufficiently addressed and reduced to an acceptable level?
3. Do the LGU and the communities affected have the capacity and ability to sustainably manage the environmental mitigation and management measures needed to address these threats?
4. Is there a strong sense of ownership and commitment among the local and community leaders, stakeholders and groups, including project operators, for the proposed environmental management plan.
5. Will the project affect persons, vulnerable groups, properties, structures, crops, trees and other improvements?
6. Are there resettlement plans prepared? (RAP, Relocation and Transfer Plans)
7. Is the project acceptable to stakeholders? Were public consultations conducted?

**H. GENDER SENSITIVITY ASPECTS**

*Project Identification and Conceptualization:*
1. Does the LGU have an existing policy related to the project?
2. Is the policy gender sensitive?
3. Does the project team have a gender or social development specialist with experience in gender and/or consult with other gender experts?
4. Was a rapid gender review conducted to identify and quantify potential gender and other social issues and impacts affecting access, mobility, risks and benefits?
5. If any gender or other social issues were identified in the rapid review, were they discussed in the project concept note?

*Preparation and Design*
If the rapid gender review identified significant gender concerns that need to be addressed, then the following are key question for ensuring gender-responsive design:

1. Did the TOR of the gender specialist include key gender and public market questions/issues highlighted by the rapid review especially to identify gender-based needs, constraints and opportunities?
2. Were both women and men affected by the project included in the stakeholder consultations?
3. Were separate women and men focus groups organized to enable women to voice their views separately from the men?
4. Was the prioritization of gender-targeted activities within project components done in consultation with both women and men who are expected to benefit from the project?
5. Were gender-related public market issues that need to be addressed identified? Were approaches for addressing the gender-related issues identified and developed?
6. Were indicators developed to measure progress on gender-related issues within the relevant project components?

*Project Appraisal*
1. How were the gender issues identified in the project design addressed? What project outcomes/outputs addressed gender issues? What are the gender-sensitive indicators?
2. Are there adequate budget resources allocated for gender-related activities?
3. Does the implementing agency have adequate institutional capacity to manage and monitor gender and public market indicators for monitoring and implementation of project indicators? If not, what kind of support do they need?
4. Are the beneficiaries’ data disaggregated by sex in the results framework and include gender equality indicators?
Implementation
1. Does the Project Implementation Team include gender experts throughout the project cycle?
2. Is the project team collecting, analyzing and reporting sex disaggregated data and other relevant gender information?
3. Have gender-specific risks identified during project preparation and design been mitigated?

Monitoring and Evaluation
1. Are sex disaggregated beneficiary data and relevant measures of gender equality integrated into the baselines and other monitoring and evaluation processes?
2. Are gender-responsive data collection methods used to gather baseline and other data?
3. Are there measures for the impact of the project components on women and men?
4. Will the value added by gender sensitivity of the project to its profitability be assessed?
5. Will the midterm review of the project look into the progress towards addressing gender issues identified in the project design? Is there scope for rectifying errors mid-way in the project’s life?
6. Will good practices and lessons learned be included in the Project Completion Report? Is there a knowledge management strategy that will put together the good practices and lessons learned?
7. Is there a plan to disseminate the evaluation findings to impart lessons learned on gender concerns

I. ORGANIZATION AND MANAGEMENT ASPECTS
1. Is the proposed organizational setup responsive to the requirements of the project implementation and operation?
2. Are the capacities and skills necessary for project implementation and operation clearly identified?
3. Are there strategies or programs adopted to address capacity building requirements of the project?
4. Are there sufficient mechanisms to ensure cooperation, coordination and collaboration among concerned entities during project implementation and operation?
5. Is there a mainstreaming plan for the project to ensure its sustainable operation beyond its lifetime?
Technical Note 3

PBAC Assessment

This Technical Note presents the assessment forms that should be used by the PBAC. These are: the Prequalification Summary Analysis Form and the Technical Proposal Summary Analysis Form.

<table>
<thead>
<tr>
<th>Prequalification Summary Analysis Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of infrastructure project: ____________________________</td>
</tr>
<tr>
<td>Name of lead firm: ____________________________</td>
</tr>
<tr>
<td>Are all questions answered and required documentation provided?</td>
</tr>
<tr>
<td>Were the owners and clients contacted?</td>
</tr>
<tr>
<td>Were projects begun on time?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
<tr>
<td>Were projects completed on time?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
<tr>
<td>Were projects accepted by clients, owners?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
<tr>
<td>Were works delivered and materials accepted?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
<tr>
<td>Were services performed per agreement?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
<tr>
<td>Were answers consistent with candidate’s answers?</td>
</tr>
<tr>
<td>Why not? __________________</td>
</tr>
</tbody>
</table>

Financial/Management Capability:

Proponent experience:

Did the team and its personnel state the abilities of their firms and the “key personnel”? | yes | no |

Do these meet the apparent construction and operational requirements of the project? | yes | no |

Est. cost of infrastructure project: ____________________________ |

Candidates’ assets (combined): ____________________________ |

Ratio (cost divided by assets): ____________________________ |

(If over 1.0, comment below)

Est. cost of infrastructure project: ____________________________ |

Avg. of candidate’s annual work (5 yrs.): ____________________________ |

Ratio (cost divided by annual avg.): ____________________________ |

(If over 2.0, comment below)

Net assessment (including comments on ratio results): Qualified ____________________________ |

Disqualified ____________________________ |

Reasons (misleading information, poor construction and/or operation performance, inadequate services performed, insufficient experience, insufficient assets):

______________________________________________________________ |

______________________________________________________________ |

Signature of Member: ____________________________
## Technical Proposal Summary Analysis Form

Name of infrastructure project: ____________________________________________________________

Name of lead firm: ______________________________________________________________________

Are all questions answered and required documentation provided? ___ yes ___ no

### A. Does the preliminary engineering design conform with LGU design and performance standards?  
(Required standard: +/-20% of final quantities) ___ yes ___ no

### B. Are the operations and management plans well thought out? ___ yes ___ no

1. Does the candidate provide enough resources to operate the facility? ___ yes ___ no
2. Has the candidate organized the operation with adequate supervision? ___ yes ___ no
3. Does the candidate have a strategy for adequately reaching the proposed service area or population? ___ yes ___ no
4. Is the forecast of consumption of services reasonable? ___ yes ___ no
5. Is the "summary implementation schedule" reasonable? ___ yes ___ no

### C. What are the environmental issues? ____________________________________________
Has the proposal properly identified them and provided appropriate mitigating measures? ___ yes ___ no

What are the social impact issues? ____________________________________________
Has the proposal properly identified them and provided appropriate mitigating measures? ___ yes ___ no

### D. Is the project proponent candidate’s financial concept clear? ___ yes ___ no

1. What is the formula for changing rents, charges, fees, or rates? Is it reasonable? What are its strengths? Weaknesses? Do you support the approach? Can you suggest a better alternative?
2. Who will pay for the rents, charges, fees, or rates? Is this a reasonable payment source? Are the rates reasonable?
3. Is the financing plan adequate? Is the interest cost comparable with current lending rates of banks? Do the terms require any guarantee from LOU? Will it require “blocking” of LGU funds?
4. Is the sponsor suggesting a date-certain, fixed price, simple transfer arrangement? If not, should a statement of conditions be required in the contract?
5. Under what circumstances can the facility be bought out by the government? How will this be addressed in the concession agreement?
6. What insurance on the facility will the project proponent be required to take out? The LGU?
7. What is the anticipated debt/equity ratio?

**Comments by PBAC/Technical Committee:**
______________________________________________________________________________________________________
______________________________________________________________________________________________________
______________________________________________________________________________________________________

Signature of Member: _____________________________
GLOSSARY OF TERMS
GLOSSARY OF TERMS

Benefit-Cost Ratio (BCR) - is an indicator, used in the formal discipline of cost-benefit analysis attempts to summarize the overall value for money of a project or proposal. A BCR is the ratio of the benefits of a project or proposal, expressed in monetary terms, relative to its costs, also expressed in monetary terms. All benefits and costs should be expressed in discounted present values.

BOT 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 the Republic Act 7718 (The Philippine BOT Law) and its Implementing Rules and Regulations:

i. Build-and-Transfer (BT) scheme - 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.

ii. Build-Lease-and-Transfer (BLT) scheme - 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.

iii. Build-Operate-and-Transfer (BOT) scheme - 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.

iv. Build-Own-and-Operate (BOO) scheme - 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.
v. **Build-Transfer-and-Operate (BTO) scheme** - 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.

vi. **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.

vii. **Develop-Operate-and-Transfer (DOT) scheme** - a contractual arrangement whereby favorable conditions external to a new infrastructure project which is to be built by a private 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.

viii. **Rehabilitate-Operate-and-Transfer (ROT) scheme** - 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.

ix. **Rehabilitate-Own-and-Operate (ROO) scheme** - 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.

**Cash Flow** - a financial statement showing the cash generated and disbursed by a project. Net cash flow is reported profit plus (i) depreciation, (ii) depletion and capital expenditures, and (iii) amortization. This is a measure of the company’s liquidity, and alternatively can be looked at as consisting of net income (earnings) plus noncash expenditures (such as depreciation charges).

**Comparative Proposal** - this refers to a proposal that is competitive or at par with the unsolicited proposal. A comparative proposal can challenge the project cost of the unsolicited proposal of the original proponent to ensure efficiency.

**Concession** - an arrangement whereby a private entity (concessionaire) is made responsible not only for the management, operation and maintenance of asset of an implementing agency or local government unit, but also for further fixed investments.

**Debt Service Coverage Ratio (DSCR)** - also known as “debt coverage ratio,” is the ratio of cash available for debt servicing to interest, principal and lease payments. It is a popular benchmark used in the measurement of an entity’s (person or corporation) ability to produce enough cash to cover its debt (including lease) payments. The higher this ratio is, the easier it is to obtain a loan.

**Demand for Social Services** - the demand for social services is a special case of consumer demand where services have no market price, where needs are virtually unlimited, and where instead of consumer incomes, the limiting factor is government’s ability to pay.

**Economic Analysis** - this analysis provides a methodological framework for estimating economic benefits and costs.
Economic Internal Rate of Return (EIRR) - the rate at which the present value of the net economic benefits from a project over a specific period of operation equals the economic project costs. The project’s EIRR is generally compared with a hurdle rate as a consideration to continue developing and/or implementing the project.

Environmental risks - actual or potential threat of adverse effects on living organisms and environment by effluents, emissions, wastes, resource depletion, etc., arising out of an organization’s activities.

Feasibility Study - a comprehensive approach to establish a project’s viability as a PPP undertaking; under a full FS structure, LGUs would have to thoroughly review six functional areas of analysis, namely: market (demand-and-supply), technical, financial, economic, operational/institutional, and environmental and social assessment.

Financial Analysis - this analysis focuses on determining whether a project is financially viable and attractive to investors. It determines a project’s financial sustainability and overall success.

Financial Internal Rate of Return - the rate at which the net cash inflows of a project are discounted so that their total net present value is equal to the total project cost. A project’s FIRR is generally compared with a hurdle rate, sometimes determined as the long term cost of capital, as a consideration to continue pursuing the project.

Force Majeure - These are risks that are widely varied but can either be man-made (i.e. civil wars, revolutions, etc.) or naturally occurring (i.e. natural calamities such as earthquakes, climactic events, etc.) which cannot be reasonably covered by insurance mechanisms. These risks disrupt, delay or may render the PPP project impracticable.

Gender-Responsiveness Analysis – describes the effect of the project to women and men and assess if the project confers high priority on gender equality goals.

Gender-sensitive - gender sensitivity is the act of being sensitive to the ways people think about gender, so that people rely less on assumptions about traditional and outdated views on the roles of men and women. In language and the humanities, gender sensitivity often gets expressed through people’s language choice. People can choose more inclusive language that doesn’t define gender, and many new words that are gender neutral have entered languages like English to substitute for more gender specific terms.

Implementing Rules and Regulations – shall mean the Implementing Rules and Regulations of Republic Act No. 6957, as amended by Republic Act No. 7718.

Investment Coordination Committee (ICC) - an inter-agency committee of the NEDA Board tasked to: a) review the fiscal, monetary and BOP 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, 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.
**Joint Venture (JV)** - a contractual arrangement whereby a private sector entity or a group of private sector entities on one hand, and a government entity or a group of government entities on the other hand, contribute money/capital, services, assets (including equipment, land or intellectual property), or a combination of any or all of the foregoing.

**Lease or Affermage** - an arrangement which does not require private proponent or operator to make any large investment in the operation and maintenance of an infrastructure, facility or services.

**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 endorses it to the Sanggunian; c) review existing policies affecting implementation of PPP projects and proposes amendments to the Sanggunian if needed; and d) propose new policies to the Sanggunian which support PPP implementation.

**Local Sanggunian** - a council in the LGU which is tasked to: a) approves the proposed LGU PPP project; and b) authorize the LCE to enter into agreement with the private investor.

**Management or Operation and Maintenance (O&M) Contract** - a contractual agreement whereby private sector manages, for a fee, a part or whole of a public enterprise.

**Market/Demand Analysis** - this analysis deals with the demand and markets for the project’s outputs, their current and expected prices, and the impact of any government policies on these outputs.

**Negotiated Contract** – a contract based either on direct negotiation (based on the process for solicited proposals) or the unsolicited proposal itself.

**Net Present Value** - the difference between the net cost inflows of a project discounted at a given rate less the cost of the project. The decision rate for the NPV criterion is to accept projects with NPV greater than or equal to zero.

**Organization/Institutional Analysis** - this analysis is undertaken to ascertain whether a project’s proponents have the required mandate and human resources with sufficient ability and experience to implement the planned project.

**Original Project Proponent** - the bidder that submitted a complete proposal which is not included in the list of priority projects but with a potential to introduce new concept and/or technology that contributes to the achievement of the development agenda of the LGU concerned.

**Pre-Feasibility Study** - a simplified version of the full-scale feasibility analysis. The contents of a pre-F/S are the following: market (demand-and-supply), technical, financial, economic, and environmental and social assessment. Should the pre-F/S indicate significant bearing on the project, a full-scale feasibility study (F/S) is undertaken by the LGU.
Prequalification, 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

Project Appraisal - is a generic term that refers to the process of assessing, in a structured way, the case for proceeding with a project or proposal. In short, project appraisal is the effort of calculating a project’s viability[1]. It often involves comparing various options, using economic appraisal or some other decision analysis technique

Project Economics – this pertains to project-specific risks primarily affecting profitability, such as the ability of the income stream, including tariffs, to cover costs and a reasonable return. Profitability is measured by the Financial Internal Rate of Return (FIRR)

Project Proponent - refers to the private sector entity with contracted responsibility for the project and which has an adequate base to implement said project consisting of equity and firm commitments from reputable financial institutions to provide, upon award, sufficient credit lines to cover the total estimated project cost

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

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

Results Framework – a diagram showing the casual relationships of the different hierarchies of objectives; it is a planning, management, monitoring and communication tool for the project

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

Risk Allocation or Risk Mitigation - this is the process of mitigating risks embedded in PPP projects by formulating strategic policies or making policy adjustments for the benefit of the private sector partners in the PPP engagement. The aim of risk allocation or mitigation is to alleviate high project risks on the side of the private sector partners, which would otherwise be ‘passed on’ to service users through high costs

Social Impact Assessment - this analysis identifies a project’s impact on different project participants and attempts to improve project design and effectiveness through an analysis of the project’s social impact on targeted beneficiaries
**Solicited Proposals** - these are projects identified in the (Regional Development Investment Plan (RDIP)/ Provincial Development Investment Plan (PDIP)/ Local Development Investment Plan (LDIP) for regional, provincial, and local projects. These entail public or competitive bidding as the default mechanism of the local government to enter into a working collaboration with the private sector in implementing major infrastructure and development projects at the local level.

**Swiss Challenge** – of public procurement in some (usually lesser developed) jurisdictions which requires a public authority (usually an agency of government) which has received an unsolicited bid for a public project (such as a port, road or railway) or services to be provided to government, to publish the bid and invite third parties to match or exceed it. It’s an offer made by the original proponent to the government ensuring his process to be best by his initiative (as a result of his own innovative approach) or on the demand of the government to perform certain task.

**Technical Note** – provides a detailed yet simple and comprehensive yet straightforward discussion on the different aspects of feasibility and viability. The intention is to enable the local government personnel who are involved in project development to understand these different areas for feasibility analysis and apply them to justify their project ideas or proposals.

**Terms of Reference (TOR)** - terms of reference show how the scope will be defined, developed, and verified. They should also provide a documented basis for making future decisions and for confirming or developing a common understanding of the scope among stakeholders.

**Unsolicited Proposal** - refer to project proposals submitted by the private sector, not in response to a formal solicitation or request issued by the LGU, to undertake infrastructure or development projects. This type of proposal is the perspective of the private sector and how its addresses a development gap or prevailing issue in the LGU Rate of Return – rate of return (ROR), also known as return on investment (ROI), rate of profit or sometimes just return, is the ratio of money gained or lost (whether realized or unrealized) on an investment relative to the amount of money invested.

**Weighted Average Cost of Capital** - a benchmark used to evaluate the profitability of the proposed investment against alternative investment opportunities.