

**Modifications to the Generic Preferred Risk Allocation Matrix (GPRAM)  
(as of 24 May 2016)**

**Explanatory Note**

The Investment Coordination Committee-Cabinet Committee (ICC-CC), during its meeting on 25 April 2016, adopted the recommendations of the Public-Private Partnership (PPP) Governing Board on 07 March 2016 to modify certain provisions on the updated GPRAM, as of 22 December 2014, as follows:

Type of Risk	Definition, Proposed Risk Allocation and Rationale	Possible Risk Mitigation Strategies/Suggested Contract Provision(s)
<p>1.3 Permits and Approvals/Site preparation</p>	<p><b>Definition:</b> Risk that necessary approvals “may not be obtained or may be obtained only subject to unanticipated conditions, which have adverse cost and time consequences” (e.g. prolonged delay).<sup>1</sup></p> <p><b>Preferred Allocation:</b> Private (operating company / project company, as applicable); In general, Government will provide assistance in obtaining approvals and permits.</p> <p><b>Rationale/Details:</b></p> <ul style="list-style-type: none"> <li>- Private is better informed about the rationale for its request; government may, however, assist to some extent.</li> <li>- Government (i.e. the implementing agencies) <b><u>WILL FILE AN APPLICATION FOR Environmental Compliance Certificate (ECC) since implementing agencies prepare the FS and design (in case of solicited) BUT PRIVATE SHALL HAVE THE PRIMARY RESPONSIBILITY OF OBTAINING AND COMPLYING WITH THE ECC, WITH THE HELP OF THE GOVERNMENT.</u></b></li> <li>- Government is better informed and positioned to influence the speed of the approval process, particularly in situations that are complex or sensitive.</li> </ul>	<p><b>Possible Risk Mitigation Strategies:</b></p> <ul style="list-style-type: none"> <li>- Government to obtain, <b><u>ON A BEST EFFORTS BASIS</u></b>, in advance of the bidder proposal submission stage the requisite permits and approvals, which would allow the private firm to achieve a measure of pre-contractual certainty and an early start to the approval process;</li> <li>- Government to facilitate and secure assistance from relevant national and local agencies and make this a precondition for government to complete before going to bidding process; and</li> <li>- A time line must be provided in the contract in securing the necessary permits/approval. In case of prolonged delay without justifiable reasons, private firm shall bear the additional costs.</li> </ul> <p><b>Suggested Contract Provision(s):</b></p> <ul style="list-style-type: none"> <li>- Contract clause stipulating the schedule to obtain permits and approval and stipulating liquidated damages payable to private partner in case the delay is solely attributable to the government; and</li> <li>- Contract clause stipulating that the private partner shall bear the resulting additional costs or delay arising from failure to obtain or the delay in obtaining the necessary permits or approvals (<b><u>INCLUDING, BUT NOT</u></b></li> </ul>

<sup>1</sup> Risk Management Module of Public Private Partnerships Guidance Material Supporting Document Queensland Government. 2008

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		<p><b>LIMITED TO</b>, environmental license, environmental management plan or other environment-related permits) for the PPP project even due to unanticipated conditions. Any promise of the procurement or project management team of the agency or local government unit (LGU) concerned to render assistance in obtaining the required permits or approval shall not transfer the risk to the government.</p>

Based on representation by the PPP Center to the NEDA Secretariat through its 05 May 2016 letter, the above modifications provide that the government shall initiate the filing of the ECC but the obligation to continue with the process and comply with the conditions under the ECC, if any, rests with the private proponent. These modifications are being put in place since the government cannot obtain the ECC as it requires submission of the Detailed Engineering Design which the private proponent provides.

It should be noted that there are further modifications in the GPRAM being proposed by the Department of Finance (DOF) which are currently under discussion.

**ICC CORE SECRETARIAT**

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