PUBLIC-PRIVATE PARTNERSHIP (PPP) GOVERNING BOARD
Resolution No. 2017-12-06
December 8, 2017

FOR: **All Heads of Departments, Bureaus, Offices, Commissions, Authorities or Agencies of the National Government, Government-Owned and/or Controlled Corporations, Government Financial Institutions, State Universities and Colleges, Local Government Units**

SUBJECT: **GUIDELINES ON SETTING FINANCIAL BID PARAMETERS FOR THE SELECTION OF PROJECT PROPONENT IN PUBLIC-PRIVATE PARTNERSHIP (PPP) PROJECTS**

---

1. Introduction

1.1 Section 20, Article II of the 1987 Constitution recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments. This State policy is reiterated in Republic Act (RA) 6957, as amended by RA 7718, also known as Build-Operate-Transfer (BOT) Law, which mandates that the State shall provide the most appropriate incentives to mobilize private resources of financing the construction, operation and maintenance of infrastructure and development projects normally financed and undertaken by the Government.

1.2 In the Implementing Agency's (IA) selection of the project proponent, Section 4.2[1] of the BOT Law Implementing Rules and Regulations (IRR) provides for possible financial bid parameters that the IA may use to determine the most advantageous bid for the Government.

1.3 In an environment where speedy and timely infrastructure development is critical, the IAs must consider options that ensure value-for-money in their capital investments and increase the quality of public services, while lowering the overall cost of operations and maintenance by providing the budget capacity to sustain infrastructure investment in the long run. The IAs must also note the preferred areas of investment as found in the Public Investment Program (PIP) in order to determine the areas that the Government prefers to be implemented via PPP.

---

[1] The instructions to bidders, which establish the rules of the bidding, shall be clear, comprehensive and fair to all bidders and shall, as far as necessary and practicable, include the following information:

xxx

h. Parameters and criteria for evaluation of financial component of the bids;
Any one or more of the following criteria may be used in the evaluation of the financial component of the bid for determining the most advantageous bid for the Government:
  i. Lowest proposed toll, fee, rental or charge at the start of project operation, if a pre - agreed parametric tariff adjustment formula is prescribed in the bid document;
  ii. Lowest present value of government subsidy to be provided for the period covered by the contract;
  iii. Highest present value of proposed payments to Government, such as: concession fees, lease/rental payments, fixed/guaranteed payments, and/or variable payments/ percentage shares of revenue for the period covered by the contract; or
  iv. Any other appropriate financial bid parameter as may be approved by the Approving Body.

xxx

1.4 The IA shall accept the offer it deems most advantageous to the Government while ensuring the best interest of the public. Currently, the Government prefers lowest user fees or highest government share as bid parameters rather than lowest Viability Gap Funding (VGF) or highest lump sum premium payments.

2. Objective

These Guidelines aim to rationalize the framework that IAs may use in determining the most advantageous financial bid parameters for PPP projects that will ensure the best value-for-money outcomes for the Government, as well as the best interest of the user community.

2.1 Applicability

2.2 These Guidelines shall apply to the financial bid parameters of PPP projects, excluding the following:

2.2.1 projects where the PPP contract between the winning bidder and the IA concerned has been executed prior to the effectivity of these Guidelines; and

2.2.2 projects where the bids have been submitted prior to the effectivity of these Guidelines.

3.2. These Guidelines shall not, in any manner, operate to impair vested rights already accruing to a party.

3. General Principles

3.1 In accordance with Sections 4.2(h)[2] and 7.1(c)(iii)[3] of the BOT Law IRR, the IAs shall have the responsibility of determining the financial bid parameters on a project-to-project basis. The financial bid parameters are an integral part of the Invitation to Pre-qualify and Bid (ITPB) or Instructions to Bidders (ITB) documentation.

3.2 Generally, only one bid criterion is used in the evaluation of the financial component of the bid. However, as provided under Section 4.2 (h) of the BOT Law IRR, the IAs may use *any one or more*[4] of the following in determining the most advantageous financial bid for the Government:

3.2.1 Lowest proposed toll, fee, rental or charge at the start of project operation, if a pre-agreed parametric tariff adjustment formula is prescribed in the bid document;

3.2.2 Lowest present value of government subsidy to be provided for the period covered by the contract;

3.2.3 Highest present value of proposed payments to Government, such as: concession fees, lease/rental payments, fixed/guaranteed payments, and/or

---

[2] *Id.*

[3] The "Financial Proposal" shall contain the following, as the case may be:
xxx
c. Financial bid corresponding to the parameters set by the Agency/LGU in accordance with Section 4.2(h).

[4] An example when more than one (1) bid criterion is used would be when an IA is unsure whether a project requires a Viability Gap Funding (VGF) or can support a revenue sharing/upfront premium scheme. In such cases, both the lowest present value of VGF *and* highest revenue share for the Government may be used by the IA as bid criteria for determining the most advantageous financial bid; provided, however, that the revenue share/upfront premium, if any, would be the preferred route, as a matter of policy subject to appropriate due diligence by the IA on the evaluation of the bid proposals.

variable payments/percentage shares of revenue for the period covered by the contract; or

3.2.4 Any other appropriate financial bid parameter as may be approved by the Approving Body.

3.3 The proposed financial bid parameters of the IAs shall be consistent with the Generic Preferred Risk Allocation Matrix (GPRAM)[5], as may be applicable.

3.4 Together with the guidelines set out in the Policy on Assessing Value for Money for PPP Projects, the general principles enumerated below shall serve as a guide to the IAs in setting financial bid parameters for purposes of determining the most advantageous bid to the Government for certain types of BOT Law contractual arrangements:

3.4.1 ***For projects developed on a user fee-based scheme where VGF or other equivalent forms of government support have not been extended***, the financial proposal with the lowest starting user fees shall be preferred, especially for projects involving basic services. However, in cases where the IA sees a potential upside for the government, it may set a starting user fee and the financial proposal with the highest revenue share for the government may be preferred.

Future adjustments, if any, of the abovementioned shall be based on the same formula and appropriate indices which shall be applicable to all qualified bidders.

To maximize value capture, any additional source/s of revenue of the project shall be considered and utilized to scale down the user fees and/or scale up revenue for the government.

3.4.2 ***For projects developed on a user fee-based scheme where VGF or other equivalent forms of government support have been extended*** (in accordance with the Policy on Viability Gap Funding for PPP Projects, which provides that VGFs are made available to solicited concession-based projects that are economically viable but are not financially attractive), the financial proposal with the lowest present value of VGF or other equivalent forms of government support requirement during the tenure of the PPP contract may be considered, provided that the total government undertaking shall not exceed fifty percent (50%) of the total project cost[6].

3.4.3 ***For projects developed on an availability-based scheme***, the IA may consider the financial proposal with the lowest net present value of government payments such as amortization payments or other equivalent forms, taking into consideration the project's whole of life cost[7], private sector returns, less other sources of revenue (e.g. commercial profit), as may be applicable.

3.4.4 ***For projects where government finances the construction cost from***

[5] The GPRAM identifies the party that could best handle the risks involved in undertaking a PPP project including some proposed mitigating strategies and contractual provision for each risk. It is intended to be recommendatory and envisioned to serve as reference of the ICC and the proponent agencies in the ICC review of PPP projects.
[6] Section 13.3(a), BOT Law IRR.
[7] For PPP projects involving Operation and Maintenance (O&M) only, the whole of life cost pertains to the O&M cost over the life of the contract.

budgetary allocation and/or official development assistance and offers the constructed facilities for private operations and maintenance, the financial proposal with the lowest net present value of the operations and maintenance fee may be considered.

3.4.5 For unsolicited PPP projects, the IAs shall likewise apply the foregoing principles, without prejudice to Section 4-A(2)[8] of the BOT Law.

3.4.6 In certain cases, where the IA is of the view that despite the scaling down of starting user fees/rent/lease payments to a considerable extent, the bidder is in a position to share a portion of the profit with the IA, the appropriate Approving Body will determine whether such profit should accrue to the IA or recommend such other measure that is most suitable for the project.

3.4.7 The IAs may recommend such other financial bid parameter that is most suitable for a project, for consideration and approval by the appropriate Approving Body. The IAs may also consult the PPP Center, the Department of Finance (DOF), and other members of the Investment Coordinating Committee (ICC) in setting financial bid parameters, to ensure that the public will benefit from the project at the least possible cost.

4. Effective Date

4.1 These Guidelines shall take effect immediately upon approval by the PPP Governing Board.

I hereby certify that these Guidelines were approved by the PPP Governing Board at its meeting held on December 8, 2017.

FERDINAND A. PECSON
Undersecretary and Executive Director
Head, PPP Governing Board Secretariat

[8] Unsolicited proposals for PPP projects shall not require direct government guarantee, subsidy, or equity.