

PTC Form 4: Proposed Risk Allocation and Contingent Liabilities of the Government

- Objective: 1) To determine the party best able to manage and allocate each risk to
 2) To identify all contingent liabilities for the government and the corresponding measures to mitigate identified risks, pursuant to Section 15.3 of the Revised 2022 BOT Law IRR

Official Project Name

1. Proposed Risk Allocation and Corresponding Contingent Liabilities (CLs) of the Government

Item No.	Type of Risk	Details of the risk	As per GPRAM issued Aug. 2016, who should take the risk? G - gov't P - proponent P&G - gov't & proponent	For the Project, who shall take the risk? G - gov't P - proponent P&G - gov't and proponent	Details of the position on each risk including justifications for risk allocations deviating from GPRAM	For risks that will be assumed by the GOVERNMENT								
						Who shall assume the risk within the government? (Agency/LGU or National Government)	Probability that such risk will occur	Will this risk expose the government to fiscal or financial obligations (CLs)? (if yes, answer succeeding columns)	Specific risk event that would trigger a CL	Risk mitigating measure	Estimated cost in implementing the risk mitigating measure	Target dates to have each measure in place	Appropriate action plan to manage each type of risk	
1	Existing structure and assets (refurbishment / extensions)	Risk that existing structures (e.g., buildings, rail lines) and other assets (e.g., computer systems) are inadequate to support new improvements or structures / activities subject of or involved in PPP contract, resulting in additional construction, time, and cost that may be necessary to replace, strengthen, or improve the existing structures or assets to enable it to successfully support the project	P&G			---	---	---						
2	Existing facilities: Current service contracts	Uncertainties inherent in existing contracts for the delivery, upkeep or refurbishment of the asset lead to unexpected benefits or costs for the proponent and/or interface issues	P&G			---	---	---						
3	Existing facilities: Current Government employees	Risks relating to uncertainties and costs in utility of current employees and in retrenching redundant employees	G			---	---	---						
4	Geotechnical site conditions	Risk that unanticipated adverse geological conditions (geotechnical risk) are discovered which cause construction or maintenance costs to increase and/or cause construction delays	P&G			---	---	---						
5	Permits and approvals / Site preparation	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)	P&G			---	---	---						
6	Environmental liabilities existing prior to the project	Risk that the project site is contaminated requiring significant remediation expenses	P&G			---	---	---						
7	Environmental liabilities created during operation	Risk that the use of the facility / project site over the contract term has resulted in significant environmental liabilities (clean up or rehabilitation required to make the site fit for future anticipated use)	P			---	---	---						
8	Cultural heritage	Risk of costs and delays associated with the discovery of archaeological and cultural heritage attributable directly to the Government's mandated process of conserving, protecting, regulating, and disposition of said discovery	P&G			---	---	---						
9	Availability of site	(i) Risk that tenure / access to a selected site which is not presently owned by Government or proponent cannot be negotiated (ii) Risk of costs and delays in negotiating land acquisition	P&G			---	---	---						
10	Design / Technical risk	Risk that the design of the facility is substandard, unsafe, or incapable of delivering the services at anticipated cost and specified level of service (often resulting in long term increase in recurrent costs and long term inadequacy of service)	P&G			---	---	---						
11	Interconnectivity risk	Interconnectivity refers to the physical linkage of a project to another or to part of a network	P&G			---	---	---						
12	Inter-operability risk	Interoperability risk refers to the risks associated with achieving clear and efficient operational arrangements with other facility operator/s which have to be considered in the project design and operation system requirements	P&G			---	---	---						
13	Construction	Risk that events occur during construction that prevent the facility from being delivered on time and on cost	P			---	---	---						
14	Commissioning	Risk that either the physical or the operational commissioning tests which are required to be completed for the provision of services to commence, cannot be successfully completed	P			---	---	---						
15	Interest rates prior to construction completion	Risk that prior to completion, interest rates may move adversely	P			---	---	---						

16	Interest rates post-completion of construction	Risk that after completion, interest rates may move adversely	P			---	---	---					
17	Exchange rate	Risk that during operation, exchange rates may move adversely, affecting the proponent's ability to service foreign denominated debt and obtain its expected profit	P			---	---	---					
18	Inflation	Risk that value of payments received during the term is eroded by inflation	P&G			---	---	---					
19	Financing unavailable	Risk that when debt and/or equity is required by the private firm for the project, it is not available then and in the amounts and on the conditions anticipated	P			---	---	---					
20	Sponsor risk	Risk that the proponent is unable to provide the required services or becomes insolvent	G			---	---	---					
21	Change in ownership	Risk that a change in ownership or control of the proponent results in a weakening in its financial standing or support or other detriment to the project	P&G			---	---	---					
22	Tax changes	Risk that before or after completion, the tax imposed on the proponent, its assets or on the project, will change	P&G			---	---	---					
23	Lessee risk	Risk that the major critical assets necessary for the operational stage of the project are acquired through leases and that the proponent defaults on those lease obligations. This leads to the assets being foreclosed and the operations of the project being interrupted	P			---	---	---					
24	Inputs / Operating cost overrun	Risk that required inputs during the operations stage cost more than anticipated, are of inadequate quality or are unavailable in required quantities	P			---	---	---					
25	Maintenance and refurbishment	Risk that design and/or construction quality is inadequate resulting in higher than anticipated maintenance and refurbishment costs	P			---	---	---					
26	Changes in output specification outside agreed specification range (including modifications and augmentations)	Risk that Government's output requirements are changed after contract signing whether pre or post commissioning Change prior to commissioning may require a design change with capital cost consequences depending on the significance of the change and its proximity to completion Change after completion may have a capital cost consequence or a change in recurrent cost only (for example, where an increase in output requirements can be accommodated within existing facility capacity)	P&G			---	---	---					
27	Operator failure / shortfall in service quality	Risk that a subcontract operator may fail financially or may fail to provide contracted services to specification (Failure may lead to service unavailability and a need to make alternate delivery arrangements with corresponding cost consequences)	P			---	---	---					
28	Technical obsolescence or innovation	Risk that the nature of the contracted service or its method of delivery is not keeping pace, from a technological perspective, with competition and/or public requirements Proponent's revenue may fall below projections either via loss of demand (user pays model) to competing services and/or operating costs increasing Government may wish to change specifications of contracted service	P&G			---	---	---					
29	Third party liability	Risk that third parties file suits or claim damages against Government for faults of the proponent and vice versa	P&G			---	---	---					
30	Demand risk	Risk that operating revenues fall below forecast as a result of decrease service volume (i.e., traffic volume, water or power consumption) attributable to an economic downturn, competition in the relevant market tariff increases, or change in consumer habits	P&G			---	---	---					

31	Changes in competitive network	Risk that an existing network is extended / changed / re-priced so as to increase competition for the facility	P				---	---	---					
32	Ancillary commercial businesses	Risk that ancillary commercial business operations adversely impact the proponent's fulfillment of PPP contractual obligations and/or pose additional exposures for Government	P				---	---	---					
33	Industrial relations	Risk of strikes or industrial action causing delay and cost to the project	P				---	---	---					
34	Approvals	Risk that additional necessary approvals required during the course of the project cannot be obtained	P&G				---	---	---					
35	Changes in Law / Policy	Risk of a change in law / policy of Government only, which could not be anticipated at contract signing and which has adverse effects on revenues, capital expenditure or operating cost of the proponent	P&G				---	---	---					
36	Economic Regulation	Risk that where there is a statutory economic regulator involved there are pricing or other changes imposed on the proponent which do not reflect its investment expectations	G				---	---	---					
37	Availability of Government Appropriations	Risk in delays in Government contractual payments to the proponent arising from unavailability of Government budgetary appropriations	G				---	---	---					
38	Changes in statutory rates of general application	Risk of changes in minimum wages and other regulated rates of general application affecting the proponent	P				---	---	---					
39	Force majeure risk	Risk that inability to meet contracted service delivery (pre or post completion) is caused by reason of force majeure events	P&G				---	---	---					
40	Default and termination	Risk of 'loss' of provision by the proponent of contracted services upon the premature termination of project contract	P&G				---	---	---					
41	Residual value on transfer to Government	Risk that on expiry or earlier termination of the services contract the asset is not in the required condition term	P				---	---	---					

Certification by Head of Agency

I hereby certify that:

- (1) the foregoing responses are correct, true and accurate;
- (2) the (Name of Agency) has the resources required and is capable of undertaking its obligations pertaining to contingent liabilities and impose mitigating measures to minimize risks involved in the project; and
- (3) the planned risk mitigating measures shall be implemented.

Name, Signature of Head of Agency / Date signed