



DEPARTMENT OF FINANCE
DEPARTMENT OF BUDGET AND MANAGEMENT
COMMISSION ON AUDIT

PERMANENT COMMITTEE

Joint Circular No. 2023-01
February 22, 2023

**GUIDELINES ON MANAGING RECEIPTS FROM
PUBLIC-PRIVATE PARTNERSHIP PROJECTS**

Section 1.0 Rationale

Pursuant to the "One Fund" concept in government budgeting and accounting, consistent with the provisions of Section 29(3) of Article VI of the Constitution, as implemented by Sections 44 and 45, Chapter 5, Book VI of Executive Order (EO) No. 292 (Administrative Code of 1987) and Sections 65 and 66 of the Presidential Decree (PD) No. 1445 (Government Auditing Code of the Philippines), unless otherwise specifically provided by law, all income, fees, charges, assessments, and other receipts or revenues collected by government offices and agencies by virtue of the provisions of law, orders, and regulations, shall be deposited in the National Treasury or in any duly authorized government depository and shall accrue to the Unappropriated Surplus of the General Fund of the Government.

Nevertheless, the General Provision (GP) on Receipts from Public-Private Partnership (PPP) Projects of the General Appropriations Act (GAA) provides that receipts collected or received by departments, bureaus, offices, and instrumentalities of the National Government, including Constitutional Offices enjoying fiscal autonomy, state universities and colleges (SUCs), and government-owned and controlled corporations (GOCCs), such as toll fees, charges, and other revenues arising from projects implemented through build-operate-and-transfer (BOT) arrangement and other variants pursuant to Republic Act (RA) No. 6957, as amended by RA No. 7718 (BOT Law), intended for the Project Proponent, shall be deposited in an authorized government depository bank (AGDB) and booked as a trust liability account (TLA) of the agency concerned, subject to the guidelines to be issued by the Permanent Committee (PC).

Section 2.0 Definition of Terms

The following terms, when used in this Circular, shall be understood as follows:

- 2.1 *Authorized Government Depository Bank (AGDB)* – refers to banks where National Government Agencies/GOCCs/Government Financial Institutions/Government Instrumentalities with Corporate Powers/Government Corporate Entities, and Local Government Units (LGUs) are allowed by law to deposit

Government funds and maintain depository accounts, or by way of exception, a bank allowed by the Department of Finance (DOF) and the Monetary Board to hold government deposits subject to prescribed rules and regulations.¹

- 2.2 *Implementing Agency (IA)* – refers to the Grantor/s or Co-grantors of the project as defined in the International Public Sector Accounting Standard (IPSAS) 32. The Implementing Agency shall be considered as any department, bureau, office, commission, authority, or agency of the National Government, including Constitutional Offices enjoying fiscal autonomy, SUCs, and GOCCs authorized by law or their respective charters to contract for or undertake infrastructure or development projects under the BOT Law.
- 2.3 *PPP Contract* – refers to the contract for the PPP Project as approved in accordance with the BOT Law executed and signed by the IA and the Project Proponent.²
- 2.4 *PPP Project* – means any private sector infrastructure or development project undertaken through any of the contractual arrangements defined under the BOT Law, including such other variations as may be approved by the President of the Philippines.³
- 2.5 *Project Proponent* – refers to the Operator/s of the project as defined in the IPSAS 32, that is, the private sector entity that was awarded the PPP Project, or its successor-in-interest.
- 2.6 *Trust Liability Bank Account (TLBA)* – refers to any account opened and maintained in an AGDB which is used to record the deposit of receipts collected or received by IAs arising from PPP Projects, the whole or a portion of which is intended for the Project Proponent pursuant to the terms and conditions of the PPP Contract.
- 2.7 *Trust Liability Account (TLA)* – is an account used to recognize the receipt of an amount held in trust for a specific purpose.
- 2.8 Capitalized terms not otherwise defined in these Guidelines shall have the meaning or the reference ascribed in the BOT Law and/or its Implementing Rules and Regulations.

Section 3.0 Purpose

These Guidelines are prescribed to ensure that the establishment and management of TLBA for receipts arising from PPP Projects covered under Section 4.0 comply with existing laws and relevant rules and regulations.

¹ Section 3.1, DOF Department Circular No. 01-2017 (May 11, 2017) Amended Guidelines on Authorized Government Depository Banks

² Section 12.1, Revised Implementing Rules and Regulations of RA No. 6957, as amended by RA No. 7718 (October 22, 2012)

³ Section 1.3 (v), Ibid.

Section 4.0 Coverage

4.1 These Guidelines shall cover PPP contracts, which:

- i. require the creation of TLBA; and
- ii. require the IAs to collect the receipts, such as toll fees, charges, and other revenues arising from the PPP Projects, the whole or a portion of which is intended for the Project Proponent pursuant to the terms and conditions of the PPP Contract.

4.2 These Guidelines shall not cover receipts collected or received from PPP projects of LGUs.

Section 5.0 Applicability

These Guidelines shall apply for as long as the relevant section of the GPs of the GAA for succeeding fiscal years require the receipts collected or received by IAs arising from PPP Projects and intended for the Project Proponent to be deposited in an AGDB and booked as a TLA, except for PPP Projects covered by other appropriate guidelines.

Section 6.0 Legal Bases

- 6.1 The BOT Law declares it a State policy to recognize the indispensable role of the private sector as the main engine for national growth and development, and to provide the most appropriate incentives to mobilize private resources for the purpose of financing the construction, operation, and maintenance of infrastructure and development projects normally financed and undertaken by the Government.
- 6.2 Section 65 of PD No. 1445 (1978) and Section 44, Chapter 5, Book VI of EO No. 292 (1987), mandate that, unless otherwise specifically provided by law, all income accruing to the departments, offices, and agencies under existing laws, orders, and regulations shall (i) be deposited in the National Treasury or an AGDB, and (ii) accrue to the Unappropriated Surplus of the General Fund.
- 6.3 Further, Section 66 of PD No. 1445 (1978) and Section 45, Chapter 5, Book VI of EO No. 292 (1987) provide that receipts shall be recorded as income of Special, Fiduciary, or Trust Funds or Funds other than the General Fund, only when authorized by law and following such rules and regulations as may be issued by a PC consisting of the Secretary of Finance as Chairperson, and the Secretary of the Budget and Management and the Chairperson of the Commission on Audit (COA), as members.
- 6.4 Under the GP on Receipts from PPP Projects of the GAA, receipts collected or received by departments, bureaus, offices, and instrumentalities of the National Government, including Constitutional Offices enjoying fiscal autonomy, SUCs, and GOCCs, such as toll fees, charges, and other revenues

arising from public sector projects implemented through BOT arrangement and other variants pursuant to RA No. 6957, as amended by RA No. 7718, the whole or a portion of which is intended for the Project Proponent pursuant to the PPP Contract entered into by the IA and the Project Proponent shall be deposited in an AGDB. Said receipts shall be booked as TLA of the agency concerned.

Section 7.0 General Guidelines

In the creation, management, and closure of a TLBA, the following policy guidelines shall be observed:

7.1 Creation of the TLBA

The IA and the Bureau of the Treasury (BTr) shall open and establish a separate TLBA for each PPP Project in accordance with the relevant section of the GPs of the GAA, the applicable provisions of the PPP Contract, and these Guidelines. The IA will recognize the asset account in its books, subject to the following conditions:

7.1.1 the IA shall issue specific guidelines prescribing the rules and procedures for the management of the TLBA for the relevant PPP Project, which shall include, among others:

- i. the basis and process in determining the appropriate share of the IA;
- ii. the office authorized to make such determination; and
- iii. the timeline when the share of the IA and the interest earned from the maintenance of the TLBA shall be remitted/deposited to the National Treasury.

7.1.2 The specific guidelines shall be approved by the head of agency, except in case of projects involving co-grantors, where the specific guidelines shall be approved by the Secretary of the department to which the co-grantors are attached; and

7.1.3 The IA must have transmitted a copy of such specific guidelines to both the PC and the PPP Center.

7.2 Management of the TLBA

7.2.1 The IAs shall be responsible for the inflows and outflows of funds in the TLBA, consistent with the relevant provisions of the PPP Contract, these Guidelines, and the specific guidelines issued by the IA concerned. The TLBA shall be opened and maintained only in an AGDB.

7.2.2 Following the legal bases in Section 6 of these Guidelines, the TLBA shall be opened jointly by the BTr and the IA. Signatories of the TLBA

for all transactions, including those involving outflow of funds, shall be designated in accordance with the rules on signing authorities of the BTr and the IA.

- 7.2.3 Unless waived by the AGDBs, all expenses and liabilities, such as but not limited to service charges and other bank fees, shall be chargeable against the TLBA. Should the amount under the TLBA be insufficient, such expenses and liabilities shall be borne solely by the Project Proponent concerned. In such case, the IA shall issue a notice to the Project Proponent on the amount it has to pay with regard to the service charges and other bank fees of the TLBA.
- 7.2.4 The TLBA shall not form part of the Modified Disbursement System prescribed by Memorandum Order No. 276 (1990), as amended.
- 7.2.5 The IA's share in the receipts collected or received from the PPP Project and the interest earned from the maintenance of the TLBA shall be immediately deposited to the National Treasury as income of the General Fund.

7.3 Closure of the TLBA

Subject to the terms of the PPP Contract, DOF-DBM-COA PC Joint Circular No. 4-2012 (Rules and Regulations Implementing EO No. 431 [2005] Directing the Reversion of All Dormant Accounts, Unnecessary Special and Trust Funds to the General Fund and for Other Purposes), COA Circular No. 2015-001 (Prescribing the Guidelines and Procedures in the Reversion to the General Fund of All Dormant Cash, Unauthorized Accounts, Unnecessary Special and Trust Funds and Related Accounts, in Conformity with PC Joint Circular No. 4-2012, implementing EO No. 431 [2005]), and other relevant issuances, upon termination of the PPP Contract and once all payables against the TLBA have been settled, the TLBA shall be closed, and its balance shall be remitted to the National Treasury as income of the General Fund.

Section 8.0 Source of Collections

A TLBA shall be sourced from receipts such as toll fees, charges, and other revenues arising from PPP Projects, the whole or a portion of which is intended for the Project Proponent pursuant to the terms and conditions of the PPP Contract.

Section 9.0 Releases from the TLBA

The mechanism for the disbursement of funds from the TLBA shall be governed by the specific guidelines to be issued by the IA concerned, in accordance with existing budgeting, accounting, and auditing rules and regulations, and consistent with the relevant provisions of the PPP Contract and these Guidelines. The IA shall ensure

timely remittance to the Project Proponent of its authorized share from the receipts received by the IA arising from the PPP Project.

Section 10.0 Accounting and Auditing Rules and Regulations

The TLA and TLBA shall be subject to existing accounting and auditing rules and regulations prescribed by the COA.

Section 11.0 Monitoring and Reporting

IAs maintaining TLBAs, in accordance with these Guidelines, shall submit reports to COA, DBM, BTr, PPP Center, Senate Committee on Finance, House Committee on Appropriations, and other government agencies, pursuant to:

- i. The BOT Law;
- ii. COA Circular No. 2015-007 dated October 22, 2015 (Prescribing Government Accounting Manual for Use of All National Government Agencies);
- iii. COA-DBM Joint Circular No. 2019-01 dated January 1, 2019 (Updated Guidelines Relative to Budget and Financial Accountability Reports Starting FY 2019);
- iv. Certain provisions prescribed in the annual GAA for the current fiscal year; and
- v. Other relevant issuances.

Section 12.0 Sanction Clause

As prescribed under the relevant sections of the GPs of the GAA on receipts from PPP Projects, disbursements or expenditures by IAs in violation of these Guidelines shall be void and shall subject the erring officials and employees to disciplinary actions in accordance with Section 43, Chapter 5, and Section 80, Chapter 7, Book VI of EO No. 292, and to appropriate criminal action under existing penal laws.

Section 13.0 Resolution of Issues Clause

Issues and concerns that may arise in the interpretation and implementation of these Guidelines shall be resolved by the PC, as the case may be. The PC shall adopt its own rules of procedure in the settlement of issues and concerns that could potentially arise in the interpretation and implementation of these Guidelines.

Section 14.0 Repealing Clause

Issuances or part/s thereof that are inconsistent with these Guidelines are hereby repealed, amended, or modified accordingly.

Section 15.0 Separability Clause

If, for any reason, any part or provision of these Guidelines is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.


Section 16.0 Effectivity

These Guidelines shall take effect immediately upon its publication in the Official Gazette or in a newspaper of general circulation.


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