



UTTARAKHAND PUBLIC PRIVATE PARTNERSHIP (PPP) POLICY- 2012

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1. INTRODUCTION & POLICY OBJECTIVE

1.1. Introduction

- 1.1.1. Uttarakhand state came into existence on November 9, 2000 with primary objective of bringing development to hill region of the state.

In the era of globalization, it is imperative for the governments to improve the public infrastructure in order not only to build competitive advantage but also to ensure inclusive and sustainable development of nation/state as a whole, by increasing outreach of investments to all parts of the nation.

Planning Commission, Government of India, had estimated that around US\$ 1 Trillion has to be invested in the infrastructure sector during the 12th Plan to achieve growth targets of the plan. Out of which 50% is planned to be invested through Public Private Partnership (PPP) mode. It has been envisaged that a large part of this investment would have to come from the private sector. Therefore, private sector needs to be actively engaged and encouraged to participate in infrastructure development and improvement of service delivery in existing infrastructure as well.

- 1.1.2. Public Private Partnership (PPP) is one of the best tools to engage the private sector in investment into public infrastructure development to :
- a. complement government's efforts,
 - b. supplement resources available to government,
 - c. bring in operational efficiency and expediency in execution of projects and delivery of service
 - d. bring in customer oriented approach in service delivery and benchmark service levels
 - e. and finally to create competitive environment within this sector.
- 1.1.3. To realize the above objectives, Government of Uttarakhand (GoUk) is adopting this policy for Public Private Partnership, as a standard tool, serving the provision of public services and public infrastructure.

This PPP policy declares in the first place an unambiguous support for the implementation of PPP projects and also takes care of their regulation and the position of the regulator in strengthening fiscal discipline.

In order to take full advantage of PPPs Government of Uttarakhand shall issue guidelines for subjecting all infrastructure projects, above a certain size in terms of project cost, to a PPP test. If the PPP test suggests that project would result in better value for money for the Government and all stakeholders through PPP then it shall be developed as a PPP project. Only in case PPP test indicates impossibility of PPP by way of negative value for money for Government through PPP then it shall be considered under full government funding.

1.2. PPP Definition

1.2.1. This Policy defines PPP as “ an arrangement *based on a contract* between a *government or statutory entity or government owned entity on one side and a private sector entity on the other*, for the provision of public infrastructure assets and/ or related services for public benefit, through investments being made by and/or management undertaken by the private sector entity for a specified time period, where there is a substantial risk sharing with the private sector and the private sector receives performance linked payments that conform (or are benchmarked) to specified, pre-determined and measurable performance standards.

1.2.2. Government entity shall mean :

- a. Government Departments & Directorates
- b. Government sponsored boards, societies and other autonomous bodies
- c. Government sponsored education, research and knowledge management institutions
- d. Urban Local Bodies and Panchayats
- e. Government owned companies

Private Sector Entity shall mean an entity in which 51% or more of the subscribed and paid up equity is owned and/or controlled by a private entity. This shall include privately owned/sponsored societies, not for profit organizations as well.

1.3. Applicability

1.3.1. This PPP Policy shall apply to all Infrastructure Projects including social sectors, Primary sectors and service industry implemented through Public Private Partnership in the sectors as may be notified by the Government or Government Entity as define in para 1.2.2 under the Policy from time to time. This Policy would apply to all state government entities as defined in 1.2.2.

1.4. The Policy Objectives

1.4.1. The key objectives of this policy are to: -

1. Create a conducive environment for private investment so as to:
 - a. Find additional capital from private sector to fund commercially viable projects and thus freeing of government funds for better allocation to commercially nonviable but socially justifiable projects
 - b. Utilize efficiencies from innovativeness, flexibility, cost efficiency, alternative management and implementation skills of private sector
 - c. Provide and ensure better quality value added services to the consumer and the public at large
 - d. Provide better identification of needs and optimal use of resources
 - e. Develop efficient public infrastructures in shorter terms than otherwise

2. Achieve economic growth and boost direct international and domestic investments by giving incentives to private investment in public infrastructure and public services
3. Limit negative impact of non-systematic execution of PPP projects
4. Set up a transparent, consistent, efficient administrative mechanism to create a level playing field for all participants and protect interest of all stakeholders.
5. Prepare a shelf of projects to be offered for PPP with assistance of the owner departments and take them forward through a transparent selection process.
6. Provide necessary risk sharing framework in the project structure so as to assign risks to the entity most suited to manage them.
7. Put in place a mechanism to ensure the improved value for money assessment of all projects to ensure the incremental benefit to public by selecting right projects for public private partnership.
8. Put in place an effective and efficient institutional mechanism for speedy clearance of the projects.
9. Create a robust dispute redressal mechanism / regulatory framework for PPP projects.

1.5. Priority Sectors

1.5.1. The priority sectors covered by the policy, which may be modified from time to time, are as follows:

Sr. No.	Sector	Sub Sector
1.	Urban	a. Urban Transportation Systems / Improvement of Public Transport Facilities including construction of state-of-the-art bus-stands. b. Solid waste Management c. Sewerage & Drainage d. Mass Rapid Transport Systems e. Water treatment and Supply
2.	Energy	a. Hydro Electric Power, Transmission and Distribution Systems b. Alternative Energy Generation and Distribution
3.	Agriculture & Rural Development	a. Horticulture and Floriculture b. Organic Farming and Indigenous seed development c. Agriculture Productions and Marketing d. Rural Infrastructure e. Water treatment and Supply
4.	Transport	a. Airports, Airstrips and Heliports

		<ul style="list-style-type: none"> b. Roads, Bridges, Bypass and Ropeways c. Railway & related projects d. Inland container depots and logistics hubs
5.	Tourism	<ul style="list-style-type: none"> a. Tourism and related infrastructure including recreational b. Destination Development c. Eco-tourism
6.	Social	<ul style="list-style-type: none"> a. Healthcare infrastructure and related services b. Education infrastructure and related services
7.	Trade & Industry	<ul style="list-style-type: none"> a. Industrial parks, Theme Parks like Information Technology (IT)/ Bio- Technology (BT) Parks, Knowledge Parks, Special Economic Zones and Townships b. Trade fair, convention, exhibition, and cultural centers

Any other sector / facility as may be included by the Government

1.5.2.PPP test

All the infrastructure projects mentioned in (para 1.5.1) above shall be subject to PPP test to ensure better value for money for the Government and Stakeholders

2. CORE PRINCIPLES

2.1. Core Principles

This policy is guided by following core principles

- a. Value for money assessment
- b. Efficient use of existing assets and optimal allocation of additional resources
- c. Payment for services
- d. Equitable contractual structures
- e. Transparent process of procurement
- f. Fair regulatory framework
- g. Enabling institutional frameworks
- h. Sustainable incentives and concessions

2.2. Value for money assessment

GoUk shall encourage all departments/ agencies to inculcate the spirit and process of value for money assessment of all projects into their internal working so as to create a better benchmarking of bids for PPP projects.

Each sector and project would have different requirements with regard to value for money assessment but main principles would be to ensure better utilization for resources, better allocation of risk and thereby creating a better value to public at large for the output services.

2.3. Efficient Use of Assets and Allocation of Resources

In order to achieve the best possible use of resource pool available to government and to minimize the gestation periods for the planned benefits from new services, government first must look at the ways to improve efficient use of existing assets and create possibility of better management of service delivery through them.

This would then lead to right prioritization of resource allocation, to create newer assets through public private partnership process. This will also lead to better project formulation, which would bring in integrated infrastructure development approach by integrating the existing and new assets.

GoUk would encourage development of projects based on social need and economic viability. GoUk, however, recognizes that all "social" projects may not offer sufficient commercial incentive for PPP. In such cases, Government would use other compensation mechanisms like provision of VGF, or annuity payments. As an alternative, GoUk (or Government Agency) may implement such projects upfront and eventually transfer management of services to a Private Sector Participant (PSP), wherever feasible.

GoUk would also develop objective criteria for rationalization of investments for expanding, upgrading and/or development of Infrastructure. Typically, project identification and prioritization would be governed by the following considerations:

- a. Magnitude of gap between demand and supply for the Infrastructure;
- b. Focus on balanced regional development, especially with regard to provision of basic Infrastructure;
- c. Development of physical/ inter-sectoral linkages where significant economic gains can be realized.

Since GoUk would actively promote PPP in Infrastructure Projects, a larger share of investable public funds could be used for social needs that may not otherwise be amenable to private finance initiatives. In order to create a sustainable source of government funds for long-term infrastructure financing, GoUk would leverage internal and extra-budgetary resources under various schemes of GoI and bilateral and multilateral agencies.

2.4. Payment for Services

2.4.1. GoUk recognizes that in a system where pricing of services is not economically sustainable, users would have no incentive to economize on their use of resources, and service providers would have no incentive to become more efficient. GoUk believes that the inculcation of the “provider-charges” and the “user-pays” principles is fundamental to the success of PPPs. To this end, GoUk would, where necessary and appropriate, consider levy of user charges (tolls, fees, tariffs, cesses etc.) to meet the following objectives:

- a. Create a stable and dedicated financial source for construction/ redevelopment/ rehabilitation/replacement of project assets and their ongoing operations and maintenance in order to provide efficient, sustainable and high quality services at affordable prices to users.
- b. Manage demand
- c. Encourage PPP
- d. Cover costs of service provision
- e. Recognizing that economically weaker sections may require certain subsidies in user charges, provide explicitly for such subsidies to the project, to ensure that the project remains economically viable.

2.4.2. The levy of user charges would be based on one or more of the following criteria:

- a. Savings to users
- b. Willingness to Pay
- c. Capacity to pay
- d. Need for explicit subsidies
- e. Uniformity between various projects
- f. Present service level and the improvement envisaged.
- g. Cost Recovery
- h. Debt service & Equity returns

2.5. Contractual Structures

2.5.1. GoUk would set in place appropriate contractual arrangements to give effect to the process of project implementation. GoUk's endeavour would be to develop contractual frameworks that would allow for equitable allocation of risks between the contracting parties, taking into account the legitimate concerns of private investors. The attempt would be to allocate risks to the party best suited to bear the risks.

2.5.2. **Existing Assets:** The contractual/ implementation structures used would include the following:

- a. Management of the whole or part of the assets by private operators through
 - i. Operations and Maintenance (O&M) contracts for pre-determined periods
 - ii. Lease of assets
 - iii. Rehabilitate, Operate, Maintain and Transfer (ROMT) contracts

2.5.3. **New Assets:** Depending on the nature of the project, the contractual structures/ agreements used for new projects would include inter-alia:

- a. Build & Transfer (BT)
- b. Build-Lease-Transfer (BLT)
- c. Build-Transfer-Operate (BTO)
- d. Build-Operate-Transfer (BOT)
- e. Build-Own-Operate-Transfer (BOOT)
- f. Build-Own-Operate (BOO)
- g. Build-Operate-Share-Transfer (BOST)
- h. Build-Own-Operate-Share-Transfer (BOOST)
- i. Build-Own-Lease-Transfer (BOLT)
- j. Design- Build-Finance-Operate-Transfer (DBFOT)
- k. Rehabilitate-Finance-Operate-Transfer (RFOT)

2.5.4. Special Purpose Vehicle (SPV)

Wherever appropriate, GoUk/ GoUk Agencies may participate in the equity structure of any SPV for the development and implementation of infrastructure projects. The selection of the PSP for participating in the SPV would follow the procurement process set out by GoUk. The equity structure of the SPV would be decided on a case-to-case basis.

2.6. Procurement Process

2.6.1. Primarily all PPP contracts would be awarded on the **basis of a transparent competitive bidding** process, under the ambit of the Uttarakhand Procurement Rules 2008.

In all cases, the award criteria would be spelt out upfront. The stages in the procurement process could be single-stage or two-stage, depending on the size or level of complexity of the project and also to encourage competitive bidding.

Guidelines shall be issued for handling single bid and speculative bids.

2.6.2. For this purpose, GoUk may use the services of suitably qualified independent advisers with the requisite technical knowledge empanelled by Government of India and Government of Uttarakhand. Generally, the stages in the procurement process would include:

- a. In principle approval of the project
- b. Expressions of interest (EOI)/ Request for Qualifications (RFQ)
- c. Approvals of RFP and DCA
- d. Request for Proposals (RFP)
 - i. Technical and financial proposals
- e. Technical and Financial evaluation of bids
- f. Selection of PPP Partner(s)
- g. Signing of Agreements

2.6.3. The initial selection criteria would be based on the following **pre qualification parameters**

- a. Financial strength of the bidder - net worth, average turnover over past three years, asset base etc
- b. A minimum number of full time skilled employees
- c. Relevant Quality certification (ISO 9000, ISO 14000 etc)

- d. Should have undertaken a minimum number of projects (of specified value) in that sector.
- e. Track record of successful completion of projects in that sector

2.6.4. The criteria used for selection would include objective technical/ financial parameters, such as:

- a. Level of service, quality of assets offered;
- b. Lowest present value of Viability Grant support
- c. Lowest quantum of land
- d. Lowest present value of asset based support from the Government;
- e. Highest share (or present value of) of revenue;
- f. Lowest unit value or present value of payments by GoUk;
- g. Highest upfront payment (or present value of upfront payments);
- h. Highest present value of future payments;
- i. Lowest concession period;
- j. Lowest unit value or present value of user fees;
- k. Highest premium on (or present value of) equity shares offered.
- l. Best Value for Money proposed

2.7. Regulatory Framework

GoUk recognizes that creation of Infrastructure under the PPP model requires that there be reasonable assurance that competing facilities would not be created that would materially adversely affect the technical and financial viability of the project. With this background in mind there would also be a responsibility for the government to ensure independent regulation of such monopolistic situations to ensure that the interests of both users and service providers are kept in view.

GoUk intends to set up independent regulatory authorities for some of the infrastructure sectors. The role of the regulator would include setting norms for entry and exit, tariff fixation, establishing standards for construction, operations and maintenance for the facilities/ services, revenue sharing between Private partner and Government agency, strengthening the exit barriers - in terms of fixing bank guarantees, collateral or any such instruments to avoid unilateral exit of private partner during the project term.

However, the setting up of the regulatory authorities would be decided based on the specifics of each sector.

2.8. Institutional Arrangement

The Government of Uttarakhand recognizes the requirement for an effective and efficient institutional mechanism and therefore constitutes the requisite committees and empowered groups for furthering the objectives of the Policy.

2.8.1. Empowered Group of Ministers (EGM)

Government of Uttarakhand shall constitute Empowered Group of Ministers (EGM) consisting of following members under the chairmanship of Chief Minister for approval of all infrastructure projects as mentioned in para 3.1.3 and 3.1.4 being undertaken in PPP mode :

Permanent Members:

- a. Finance Minister, Government of Uttarakhand
- b. Planning Minister, Government of Uttarakhand
- c. Minister for Urban Development, Government of Uttarakhand
- d. Minister for PWD, Government of Uttarakhand
- e. One Minister to be nominated by Chief Minister

Non Permanent Members:

- f. Minister of the concerned Administrative Department

State Nodal Officer PPP, Principal Secretary Planning/ Secretary Planning, shall be the member-secretary of EGM.

2.8.2. Empowered Committee on Infrastructure (ECI)

Government of Uttarakhand shall constitute Empowered Committee on Infrastructure (ECI) consisting of a group of Secretaries under the Chairmanship of the Chief Secretary, Government of Uttarakhand for facilitating infrastructure development in the State under PPP. State Nodal Officer PPP, Principal Secretary Planning/ Secretary Planning, shall be the member- secretary of ECI. All PPP Projects as mentioned in para 3.1.4 and 3.1.5 will require approval of ECI.

2.8.3. Role of the ECI

The ECI shall be the nodal agency to co-ordinate all efforts of the State Government regarding development of infrastructure sectors, involving private participation and funding from various sources.

2.8.4. Powers and Functions of the ECI

The Powers and Functions of the ECI would include:

- a. To prioritize, approve projects, sanction and authorize expenditure for PPP Projects.
- b. Recommend to EGM/ State Cabinet approval of the projects mentioned in para 3.1.4 and 3.1.5
- c. To coordinate the efforts of other departments for the furtherance of the objectives of this Policy.
- d. To inspect, visit, review and monitor any PPP Projects regarding its implementation, execution, operation and management.
- e. To recommend en-action of special legislation for formation of appropriate regulatory mechanism, robust grievance redressal mechanism as may be required for the project.
- f. Frame and issue guideline to the line departments undertaking PPP initiatives
- g. Provide Technical Assistance to the departments for effective implementation of PPP projects
- h. ECI would be the driver for policy, regulatory and any relevant changes
- i. Create awareness on PPP initiatives among departments, private sector, citizens etc
- j. Approve specific service levels for the Private Partner in consultation with the project initiating department and ensure formulation of Service Level Agreement (SLA) between the Private Partner and project initiating department.
- k. Review progress of projects/ programmes undertaken under PPP and analyse the achievements with respect to the targets, both financial & physical and decide on corrective actions, if required
- l. Ensure appropriate capacity building initiatives are undertaken at various levels for successful execution of PPP Projects.
- m. Ensure development and roll out of appropriate communication strategies for State PPP Initiatives
- n. Ensure appropriate auditing and monitoring standards are developed and maintained in order to ensure highest standards of transparency and accountability.
- o. To constitute, from time to time, any committees/sub-committees from amongst its various experts/members and/or staff of the Society (PPP Cell) and assign specific responsibilities.

2.8.5. PPP Cell and the Technical Secretariat

The ECI shall be assisted by a PPP Cell in the Planning Department in undertaking the functions specified under this policy & shall be under the direct supervision of Chief Secretary.

The PPP Cell is to be assisted by a Technical Secretariat and other Infrastructure project development entities floated by the state government.

The PPP Cell may also engage consultants as and when necessary. The engagement of Consultants would be through an open bidding process. The PPP Cell will be the nodal agency to receive the proposals in respect of the PPP projects and place them before the ECI and EGM for consideration and approval.

PPP Cell would set out the process for scrutinizing and clearing all investment proposals, assist in framing guidelines for assessing the feasibility of private investment, set in place standard procurement documents and framework agreements, and assist the Government/ Government Agencies in the procurement of developers.

PPP Cell would also facilitate the Government/ Government Agencies, to develop and implement Infrastructure Projects in the PPP format, in an expeditious manner.

PPP Cell would also help GoUK in formulation, implementing and monitoring all Externally Aided Projects functioning in the state.

The fund requirements for furthering the objectives of the Policy through the PPP cell shall be initially met through budgetary support.

2.8.6. Functions of the PPP Cell and Technical Secretariat (TS)

The Functions of the PPP Cell and its Technical Secretariat would include:

- a. To identify, conceptualize and create a shelf of projects in consultation with the owner department/agency
- b. Identify critical projects in different sectors that need immediate attention;
- c. Identify projects where significant benefits of network extension can be exploited for integrated infrastructure development
- d. To develop internal evaluation guidelines in consultation with the help of respective departments /agencies to evaluate and assess the projects under value for money principle to decide whether the projects are to be funded by the State Government through multilateral /bilateral funding and/or implemented with Private Sector participation.
- e. To recommend approval of such projects for PPP to the ECI & EGM.
- f. To assist different government departments/agencies in preparing pre-feasibility reports, Detailed project reports by itself or through consultants.
- g. To appoint / select consultants to take the projects upto selection of developer stage in consultation with the concerned department/agency.
- h. To interact with the Planning Commission, Government of India (GoI) and other funding agencies like World Bank to mobilize VGF and any other fund created for such purpose.
- i. To recommend the requirement of multilateral/bilateral funding for furthering the objectives of the Policy.
- j. To act as the nodal agency for capacity building for PPP in the state. To further this function it shall conduct/recommend exposure visits and training programs on PPP at various levels of government.

- k. To recommend appropriate regulatory mechanism / robust grievance redressal mechanism as per requirement of the project.
- l. To recommend requirements of PPP from UIDF for development of projects, gap funding and for any other requirement for furthering the objectives of this Policy.
- m. Formulation and recommendation of any legislation if required for creation, administration and monitoring of the Fund.
- n. To act as the knowledge repository for PPP in the state.
- o. GoUk also recognizes the role of public opinion and stakeholder participation in facilitating Infrastructure Project development and implementation. Since the viability of projects is contingent upon cost to the final user, it is important to ascertain "what the market can bear". Mobilizing public opinion and ensuring stakeholder participation is thus an integral part of Infrastructure Projects. PPP cell would collaborate with professional bodies, NGOs, Industry Associations, and User Groups in facilitating this process.
- p. Identify and resolve bottlenecks in the institutional framework that are likely to impede investments and therefore provide a conducive environment for infrastructure development through PPP;
- q. Facilitate the conversion of approved projects into the implementation phase.
- r. To develop a robust monitoring framework for all PPP and EAP projects in the state and implement monitoring.
- s. Based on the strategy developed for each sector, PPP cell, in consultation with GoUk Departments/ Agencies, would prepare a road map for infrastructure development in the State

2.8.7. Creation of PPP Cell in Line Departments

PPP Cells shall be set up in all line departments/agencies to co-ordinate with the State PPP Cell and to take forward the PPP initiatives.

2.8.8. Creation of PPP Cell/ Committee District Level

GoUk shall set up a District PPP Committee at the District level, to co-ordinate and facilitate the implementation of infrastructure projects, including facilitation for obtaining clearances and approvals on a PPP route.

The District PPP Committee shall be chaired by the Collector of the concerned district. If required the District Committee may invite officers of appropriate rank, nominated by GoUk, as well as upto 3 representatives from the private sector, nominated by state level industrial forum.

3. PROJECT APPROVAL PROCESS

3.1. Project Approval Process

The Administrative Department undertaking the PPP Projects will have to follow the following Project Approval Process before inviting any Financial Offers from the prospective/ shortlisted bidders :

3.1.1. In Principle Approval for all Projects Developed in PPP Mode

The Administrative Department shall obtain In Principle approval for all PPP Projects in accordance with the existing Uttarakhand Procurement Rules 2008 as amended from time to time.

3.1.2. For PPP Projects with Project Cost of upto Rs Five Crores

- a. Approval for PPP Projects with Project Cost of upto Rs 5.00 cr shall be processed as per existing rules of business mentioned in Chapter 6 of Uttarakhand Procurement Rules 2008 as amended from time to time.

3.1.3. For PPP Projects with Project Cost of Rs Five Crores or more but less than Rs Twenty Five Crores, the Administrative Department shall obtain approval from following authorities :

- a. Expenditure Finance Committee (E.F.C.) in accordance with the procedures mentioned in Chapter 6 of Uttarakhand Procurement Rules 2008. EFC shall forward the Project to Empowered Group of Ministers (EGM) alongwith its recommendation.
- b. The Administrative Department should obtain the approval of concerned Minister before forwarding the Project to EGM for its approval
- c. Empowered Group of Ministers (EGM) shall grant final approval on the Project.

3.1.4. For PPP Projects with Project Cost of Rs Twenty Five Crores or more but less than Rs Two Fifty Crores, the Administrative Department shall obtain approval from following authorities :

- a. Expenditure Finance Committee (E.F.C.) in accordance with the procedures mentioned in Chapter 6 of Uttarakhand Procurement Rules 2008. EFC shall forward the Project to Empowered Committee on Infrastructure (ECI) alongwith its recommendation.
- b. Empowered Committee on Infrastructure (ECI) shall review the Project and shall forward the Project along with its recommendation to Empowered Group of Ministers (EGM)
- c. The Administrative Department should obtain the approval of concerned Minister before forwarding the Project to EGM for its approval
- d. Empowered Group of Ministers (EGM) shall grant final approval on the Project.

3.1.5. For PPP Projects with Project Cost of Rs Two Fifty Crores or more, the Administrative Department shall obtain approval from following authorities :

- a. Expenditure Finance Committee (E.F.C.) in accordance with the procedures mentioned in Chapter 6 of Uttarakhand Procurement Rules 2008. EFC shall forward the Project to Empowered Committee on Infrastructure (ECI) alongwith its recommendation.
- b. Empowered Committee on Infrastructure (ECI) shall review the Project and shall forward the Project to the State Cabinet alongwith its recommendation.
- c. The Administrative Department should obtain the approval of concerned Minister before forwarding the Project to Cabinet for its approval
- d. The State Cabinet shall grant final approval on the Project.

3.1.6. Summary of Project Approval Process

A. For PPP Projects Developed by GoUK

Project Cost of PPP Projects (Rs Crores)	Approval required from				
	In Principle Approval	EFC	ECI	EGM	State Cabinet
Upto Rs 5 cr	Yes	No	No	No	No
Rs 5 cr or more but less than Rs 25 cr	Yes	Yes	No	Yes	No
Rs 25 cr or more but less than Rs 250 cr	Yes	Yes	Yes	Yes	No
Rs 250 cr or more	Yes	Yes	Yes	No	Yes

3.1.7. Definition of Project Cost

For the purpose of this section 3.1.6 A, Project Cost shall include

- a. **Revenue Generating Commercial Projects :** Project Cost shall include the value of estimated capital investment on civil construction, procurement of equipments, furniture, fixtures, vehicles or any other equipment, physical asset required to be installed or procured for the Project, project development expenses, financing and other incidental charges.

- b. **Non revenue Generating Projects, Efficiency enhancement/ cost savings projects (management or service contracts or engineering, performance based O&M contracts and Annuity Based contacts) :**

Project Cost shall include :

- i. the value of estimated capital investment by the Private to be incurred on civil construction, procurement of equipments, furniture, fixtures, vehicles or any other equipment, physical asset required to be installed or procured for the Project, project development expenses, financing and other incidental charges AND/ OR
- ii. Estimated present value of grant (capital/ revenue), annuity payable by the Government to the private partner throughout the Concession Period.

3.2. Urban Local Bodies and Gram Panchayats etc.

- a. Urban Local Bodies (ULB's) shall take approval from their respective boards and forward the Proposal through their Administrative Department such as Urban Development Department and shall follow project approval process as per Clause 3.1 of this Policy.
- b. Rural Local Bodies (RLB's) shall take approval from their respective boards of Panchayats and forward the Proposal through their Administrative Department such as Panchayati Raj and shall follow project approval process as per Clause 3.1 of this Policy.

3.3. Government owned companies, institutions, joint ventures etc.

- a. These independent government entities shall not be allowed to bypass the prescribed approval process in this policy

3.4. Approval Process for Projects developed under PPP Mode.

Since the PPP Project development process is a technical subject and complex evaluation procedures for project structuring are involved, the concerned Principal Secretary/ Secretary may identify officers having requisite technical and project management expertise for undertaking PPP Project development process, scrutiny and appraisal both at Head of Department and Secretariat level.

3.5. Approval of Developer

The final approval on the selected Concessionaire may be obtained from the concerned Minister by the Administrative Department.

3.6. Development through Special Purpose Vehicles (SPVs)

SPVs shall be formed as and when required to carry forward and realize the objectives of this Policy and get various clearances and permissions in the SPVs to speed-up the project.

4. MONITORING, EVALUATION AND ASSESSMENT FRAMEWORK

For an effective implementation of the PPP program, a robust monitoring, evaluation and assessment framework would be developed and put into place.

4.1. Monitoring & Evaluation (M&E)

Under the M&E framework, the line departments would be responsible for project design and timely implementation under each of the respective PPP project. The PPP Cell /Technical Secretariat at the state level will be responsible for the overall monitoring and evaluation of all projects in the State.

ECl will review and monitor the progress of PPP projects regularly. All the Departments / Agencies carrying out PPP projects will provide information/data to the PPP Cell regarding the latest development.

The key roles to be undertaken under M&E by PPP Cell in this regard are discussed below:

4.1.1. Project monitoring

Under the project monitoring, the key roles to be undertaken by the PPP Cell and Technical Secretariat would include:

- a. Identify and design programme monitoring tools in the form of standard documents, spreadsheets and project plan templates.
- b. Support development of capacity building guidelines for departments and project teams in the field of M&E.
- c. Ensure financial and physical monitoring of individual projects, track deviations and identify key action areas for resolution.
- d. Setting up and administration of a process for reporting progress on key project metrics. For this the PPP Cell and Technical Secretariat may need to enrol an agency for rolling out the M&E framework.
- e. Setting up process for facilitating documents for review/ sign-off of all the projects under PPP initiatives of the State.

4.1.2. Project evaluation and impact assessment

Under the project evaluation and impact assessment the key roles to be undertaken by the PPP Cell and Technical Secretariat would include:

- a. Support development of capacity building guidelines for departments and project teams in the field of project evaluation and impact assessment.
- b. Ensure that individual project evaluation and impact assessment is undertaken for all projects.
- c. Preparing and circulating a project reference guideline for participating departments in topical subjects such as drafting Service level agreements, etc.
- d. Setting up process for facilitating project evaluation and impact assessment which will include enrolment of consultants/ organizations for carrying out project evaluation and impact assessment and engaging third party for data collection, base-lining and assessing performance

5. RISK ASSESSMENT FRAMEWORK

Risk is the potential for unwanted happenings which could impair the achievement of Project objectives and outputs. A robust risk assessment framework would be put in place that could assist State PPP initiatives in undertaking adequately and timely assessment of risks and ensuring that appropriate risk mitigation measures are adopted. GoUk shall issue guidance notes on generic risks from time to time.

6. STATE SUPPORT

The State Government will formulate sector specific policies wherever required for providing specific incentives and also establish mechanism for tariff setting, pricing, arbitration, safety and operational standards etc. It also envisages coordination across infrastructure sectors and dovetailing of sectoral plans.

State Support would include:

6.1. Administrative Support

State Government shall offer necessary administrative support to all the infrastructure projects developed in the State, which would include:-

- a. To facilitate obtaining all State & Central Government clearances as may be required for the project.
- b. To facilitate all rehabilitation & resettlement activities in case so required as per Rehabilitation and Resettlement Policy of the State Government including shifting of utilities wherever required.
- c. To facilitate the process of availing benefits under various Central Government and State Government schemes (as may be applicable) to enhance the viability of projects under implementation;
- d. To facilitate provision of supply of power and water at projects site.
- e. To facilitate acquiring of land necessary for the project.

6.2. Financial Support

Projects maybe bid on the basis of Financial Support required from the GoUk/GoUk agency. Such a financial support maybe in annual lump-sum payments, performance linked payments and shall be funded by the budgetary allocations made by GoUk/GoUk Agency.

In addition to the viability gap funding available under different schemes of Government of India, the State Government may also contribute for the remaining portion of Viability Gap as emerged from the open bid in cash or through other concessions to help the emergent infrastructure projects attain viability and get implemented.

7. PROTECTION OF STAKEHOLDER RIGHTS

The rights of the users, developers, the local community and lenders, together referred to as stakeholders shall be protected. The various mechanisms considered may include:

- a. Providing adequate legislative and administrative support for successful and timely implementation and operation of the project while safeguarding the interest of local communities.
- b. Providing adequate legislative and administrative support for levy and collection of user charges.
- c. Adopting, adapting and developing MCAs and incorporating in all project documents the requisite clauses for protection of the rights of all stakeholders.
- d. Structuring of concession agreements incorporating service standards, revenue streams and levy of equitable user charges also providing for exempt category of users wherever applicable.
- e. Setting up of Independent Regulators appellate forums and other robust dispute redressal mechanism.
- f. Ensuring that stakeholder consultations are made primary requirement in project approval requirements.
- g. Providing timely information under Right-to-Information Act

8. DURATION AND REVIEW OF POLICY

This policy would come into force with effect from the date of issue of Government Order and would be effective till the formulation of a new PPP policy.

There would be a review of this Policy based on a critical assessment of feedback from stakeholders, and changes in scope that are deemed necessary and desirable, would be incorporated at that stage.

The government recognizes that expanding and institutionalizing the scope of PPP in provision of infrastructure may also necessitate appropriate changes in the existing legislative framework. The specific legislative constraints for PPPs would also be reviewed and addressed during the review.