

In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to make english translation of Notification No. 474/XXVII(7)/2008 Dehradun, Dated 17 December, 2008 for general information.

Government of Uttarakhand  
Department of Finance  
No. 474/XXVII(7)/2008  
Dehradun: Dated: 17. December, 2008

### Office Memorandum

For promoting Public Private Partnership in physical and social sector infrastructure, the Governor is pleased to make The Uttarakhand Infrastructure Viability Gap Funding Scheme 2008.

## THE UTTARAKHAND INFRASTRUCTURE VIABILITY GAP FUNDING SCHEME 2008

### **1. Preamble:**

- (i.) It is recognized that the development of physical and social infrastructure projects requires very large investment that may not be possible out of the budgetary resources of the State Government alone. In order to remove these shortcomings and to bring in private sector, corporate and institutional resources as well as techno-managerial efficiencies it is proposed to promote revenue generating projects for the development of physical and social sector infrastructure in public private partnerships.
- (ii.) And, whereas, the Government of Uttarakhand recognizes that infrastructure projects may not always be financially viable because of difficult terrain, limited clientele, long gestation periods and limited financial returns. Financial viability of such projects can be improved through Government support.
- (iii.) Accordingly, the Government of Uttarakhand has decided to put into effect the following scheme for providing financial support to bridge the viability gap of infrastructure projects undertaken through Public Private Partnerships.

### **2. Short Title and Extent:**

This scheme will be called the Uttarakhand Infrastructure Viability Gap Funding Scheme for promoting Public Private Partnerships (PPPs) in physical & social

sector Infrastructure. It will be a Plan Scheme and suitable budgetary support will be provided in the Annual Plans on an year-to-year basis.

### 3. Definitions

- (i.) **'Competent Authority'** means either the Finance Minister or Chief Minister as the case may be.
- (ii.) **'Empowered Committee'** means a committee under the Chairmanship of Chief Secretary, Principal Secretary/Secretary Finance, Secretary Planning and Principal Secretary/Secretary of the concerned Administrative department will be the other members.
- (iii.) **'Hilly Areas'** means following areas of the State as follows.  
Entire area of District Pithoragarh, Uttarkashi, Chamoli, Rudraprayag and Champawat, Pauri Garhwal, Tehri Garhwal, Almora and Bageshwar. All hilly development blocks in District Nainital (except development blocks of Haldwani & Ramnagar) and District Dehradun (except development blocks of Vikasnagar, Doiwala, Raipur and Sahaspur).
- (iv.) **'Lead Financial Institution'** means the financial institution (FI) that is funding the PPP project, and in case there is a consortium of FIs, the FI designated as such by the consortium.
- (v.) **'Private Sector Company'** means a company in which 51% or more of the subscribed and paid up equity is owned and controlled by a private entity.
- (vi.) **'Private Sector Entity'** includes (1) a company registered under the Indian Companies Act. In which 51 % or more equity is owned and controlled by a private entity (ii) a society registered under the Societies Registration Act. 1860 and not controlled by the Government (iii) a Trust registered under the Indian Trusts Act 1882 and not controlled by Government.
- (vii.) **'Project Term'** means the duration of the contract or concession agreement for the PPP project.
- (viii.) **'Public Private Partnership (PPP) Project'** means a project based on a contract or concession agreement, between a Government or statutory entity on the one side and a private sector entity on the other side, for delivering an infrastructure service or social sector service on payment of user charges.
- (ix.) **'Total Project Cost'** means the lower of the total capital cost of the PPP Project:  
(a) as estimated by the government/statutory entity that owns the project. (b) as sanctioned by the Lead Financial institution. and (c) as actually expended; but does not in any case include the cost of land incurred by the government/ statutory entity.

- (x.) **'Viability Gap Funding or Grant'** means a grant one-time or deferred or paid in instalments provided under this Scheme with the objective of making a project commercially viable.
- (xi.) **'VGF scheme of Government of India'** means the Government of India scheme for support to PPP in infrastructure (2005) and as amended from time to time.

#### 4. Eligibility:

In order to be eligible for funding under this Scheme, a PPP project shall meet the following criteria:

- (i.) The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a Private Sector Entity to be selected by the Government or a statutory entity through a process of open competitive bidding.
- (ii.) The PPP Project for physical infrastructure will include all the sectors eligible as per provisions of VGF Scheme of G.O.I. such as:-
  - (a.) Roads and bridges, airports.
  - (b.) Power.
  - (c.) Urban transport, water supply, sanitation sewerage, solid waste management and other physical infrastructure in urban areas.
  - (d.) Infrastructure projects in Special Economic Zones/Designated Industrial Areas.
  - (e.) International convention centers and other tourism Infrastructure projects.
- (iii.) PPP Project for Social Sector infrastructure could include sectors such as:
  - (a.) General Education, including elementary, secondary higher and non formal education;
  - (b.) Technical Education;
  - (c.) Sports and Youth Services;
  - (d.) Art and Culture;
  - (e.) Medical, Public Health, Family Welfare & Medical Education;
  - (f.) Labour and Employment.
  - (g.) Agriculture Services, Agriculture Extension & Agriculture Education;
  - (h.) Soil and Water Conservation;
  - (i.) Animal Husbandry, Veterinary and Animal Sciences Education ;
  - (j.) Forestry and Wild Life; Environment Protection;
  - (k.) Minor Irrigation;
  - (l.) Non-conventional sources of Energy;
  - (m.) Urban and Rural Development;

(n.) Women and Child development;

The aforesaid list is not exhaustive and the Empowered Committee shall be authorized to add or delete sectors/sub sectors from this list.

- (iv.) The project should provide a service against payment of a predetermined tariff or user charge.
- (v.) The concerned administrative department should certify, with reasons.
  - (a) That the tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP
  - (b) That the project term cannot be increased for reducing the viability gap and;
  - (c) That the capital costs are reasonable and based on the standards and specifications normally applicable to such projects and that the capital costs cannot be further restricted for reducing the viability gap.

**5. Preparation of Projects for Viability Gap Funding:**

- (i.) The proposal for Viability Gap Funding shall be prepared and presented to the Secretariat of the Empowered Committee by the concerned Administrative Department. Proposals of govt controlled autonomous organizations or urban/rural local bodies would also be vetted and presented by the concerned Administrative Department. The proposal for seeking clearance of the Empowered Committee should be sent in 4 copies (both in hard & soft form) in the format prescribed by the Empowered Committee. The proposal should include copies of all project agreements (such as concession agreement, state support agreement, substitution agreement, escrow agreement, O&M agreement and shareholders' agreement, as applicable) and the Detailed Project Report/ Feasibility Report (see Rules 3.1 and 5.1) Project Report. In addition, the proposal should have the following:-
  - (a) Project appraisal carried out by Lead Financial Institution.
  - (b) Details of private promoter for the proposal/project and selection procedure.
  - (c) Details of rationale, efficiency improvement, and other benefits of undertaking the project in PPP mode.

**6. Appraisal/Feasibility Report:**

All project proposals under this scheme must be accompanied by a project appraisal carried out by the financial institution that is funding the PPP project and In case there is a consortium of FIs, the lead FI designated as such by the consortium.

**7. Procurement process for PPP Projects:**

The Private Sector Entity shall be selected through a transparent and open competitive bidding process as per procedure prescribed in the Uttarakhand Procurement Rules 2008. The criterion for bidding shall be the amount of Viability

Gap Funding required by a Private Sector Entity for implementing the project where all other parameters are comparable.

**8. Sanction/approval of scheme/project:**

- (i.) There shall be an Empowered Committee to consider the proposals submitted for Viability Gap Funding.
- (ii.) The Committee will be headed by Chief Secretary and will comprise members as under:
  - (a) Principal Secretary/Secretary Finance;
  - (b) Principal Secretary/Secretary of the concerned Administrative Department;
  - (c) Secretary, Planning; Member Secretary
- (iii.) PPP cell of the Planning Deptt will work as Secretariat for the scheme.
- (iv.) The concerned administrative department will prepare the primary proposal for Viability Gap funding and submit it to the PPP cell of the planning department for the consideration of the Empowered Committee as stated in para 5.
- (v.) The Secretariat of the Empowered Committee will examine the proposal and seek additional information, if required for presenting a complete proposal for consideration of the Empowered Committee. In case the proposal does not have the required information or required information is not furnished despite being so asked for by the Secretariat, the Secretariat, with the approval of Chairman of the Empowered Committee, will summarily reject the same
- (vi.) The Secretariat of the Empowered Committee will obtain the comments of the Finance & Planning Department (PPP Cell) before presenting the proposal for the consideration of the Empowered committee.
- (vii.) The Empowered Committee will thereafter consider the proposal along with the views of the Planning Department (PPP cell) and Finance Department and make its recommendations on the proposal for viability gap funding. After receiving the recommendations of the Empowered Committee the approval of Finance Minister will be obtained in cases when Viability Gap Funding is upto Rs. 5 crores. In cases where Viability Gap Funding is more than Rs. 5 Crores approval of Chief Minister shall also be taken.  
In case the PPP proposal is from a social sector not specified in the aforesaid Para 4(iii) the Empowered Committee may consider the matter on the merits of the proposal subject to the final approval of the Finance Minister.
- (viii.) All approvals will be subject to availability of budgetary provisions.

#### 9. Extent of Viability Gap Funding

(1) As regards Viability Gap Funding in physical infrastructure projects, the State Govt. Support shall be limited to providing only supplementary support to those projects which have been approved by Govt. of India under their SCHEME FOR SUPPORT TO PUBLIC PRIVATE PARTNERSHIPS IN INFRASTRUCTURE July 2005 (annexure) Accordingly, in Cases where Govt of India support does not cover the entire Viability Gap of the project, State Govt. may provide additional Viability Gap Funding upto a max. of 20% of the total Project Cost. All proposals pertaining to Viability Gap Funding In physical infrastructure should be accompanied with the approvals accorded by the Government of India under the aforesaid Scheme.

(2)(i.) In cases of PPP projects in social sectors as indicated in Para 4(iii), the State Govt. may provide Viability Gap Funding upto a maximum of 33% [Subject to max. of Rs. 10 Crores.] of the Project Cost. However in projects which are located in hilly areas or where majority of the beneficiaries are members of SC/ST, the Empowered Committee may on a case by case basis recommend Viability Gap Funding upto a max. of 50%, of the Project Cost subject to max of Rs. 15 crores.

(ii.) The Empowered Committee may on merits of a particular proposal recommend a higher amount of VGF within the percentage limits of subsidy as specified in (2)(i) and it may be sanctioned with approval of Finance Minister & Chief Minister.

#### 10. Viability Gap Support and disbursement of grant:

- (i.) Prior to disbursement the Administrative Department on behalf of the State Govt the Lead Financial Institution and the Private Sector Entity shall enter into a Tripartite Agreement for the purposes of this Scheme The format of such Tripartite Agreement shall be prescribed by the Empowered Committee from time to time.
- (ii.) Viability Gap Support under this scheme shall be determined by Empowered Committee on a case to case basis. After the approval of the Projects by the EC/Competent Authority necessary funds may be placed at the disposal of Administrative Department on the basis of its request
- (iii.) Viability Gap Funding under this Scheme will normally be in the form of a credit linked and back ended capital grant and would be released In three installment by the Administrative Department through the Lead Financial Institution.
- (iv.) The First instalment, limited to 25% of the assistance to be provided by the State Government will be released only after atleast 25% of the total cost of the project has been contributed by the Private Sector Entity and upon achieving targeted physical milestones. The second instalment, limited to additional 50% of the

assistance to be provided by the State Govt, would be disbursed only after the Private Sector Entity has contributed 50% of the total project cost. The last instalment of balance 25% of the assistance, to be provided by the State Government will be released after the project is fully functional.

In case of Projects of special nature the Empowered Committee shall be authorized to revise the disbursement schedule including the amount of grant to be released keeping in view the expenditure protections of the project.

- (v.) The Lead Financial Institution and administrative department shall be jointly responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purposes of disbursement of instalments of Viability Gap Funding. The instalments of Viability Gap Funding will be released after the administrative department and the lead financial institution jointly verify the required physical and financial progress. The Lead Financial Institution should in particular satisfy itself that prior to disbursement of VGF the Private Sector Entity has expended its share of the project cost.
- (vi.) Proposals for any other form of assistance other than capital grant may be considered by the Empowered Committee and sanctioned with the approval of the Finance Minister and Chief Minister on a case by case basis.
- (vii.) Eligible Projects will be funded on a first come first serve basis subject to availability of budget. The Finance Department will reserve the right to make sectoral earmarking of the budget available under Viability Gap Funding to ensure intersectoral balance.
- (viii.) In case of default in project implementation or misuse of funds, the released fund may be recovered with interest as arrears of land revenue under the Uttar Pradesh Public Moneys (Recovery of Dues) Act 1972 as applicable in the State of Uttarakhand.

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**(Alok Kumar Jain)**  
**Principal Secretary, Finance.**

**No. 474/ XXVII(7)/2008, Of dated**

Copy to following for Information and necessary action:-

1. Secretary to Hon'ble Governor, Uttarakhand, Dehradun.
2. Secretary to Hon'ble Chief Minister, Government of Uttarakhand, Dehradun.
3. All Principal Secretary/Secretary, Government of Uttarakhand, Dehradun.

4. Secretary, Legislative Assembly, Uttarakhand, Dehradun.
5. Accountant General, Oberoi Building, Sharanpur Road, Dehradun, Uttarakhand.
6. Commissioner Garhwal/Kumaoun, Uttarakhand.
7. Staff Officer, Chief Secretary, Government of Uttarakhand, Dehradun.
8. Staff Officer, Additional Chief Secretary, Government of Uttarakhand, Dehradun.
9. All Department head & main office head, Uttarakhand
10. All District Magistrate, Uttarakhand.
11. All section of Secretariat
12. Guard File.

By Order,



(Alok Kumar Jain)

Principal Secretary, Finance.