GOVERNMENT OF INDIA

MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS

(INFRASTRUCTURE SECTION)

SCHEME

FOR

SUPPORT TO PUBLIC PRIVATE PARTNERSHIPS IN INFRASTRUCTURE

JULY, 2005

Scheme for Support to
Public Private Partnerships in Infrastructure

A. Whereas the Government of India recognizes that there is significant deficit in the availability of physical infrastructure across different sectors and that this is hindering economic development;

B. whereas the development of infrastructure requires large investments that cannot be undertaken out of public financing alone, and that in order to attract private capital as well as the techno-managerial efficiencies associated with it, the Government is committed to promoting Public Private Partnerships (PPPs) in infrastructure development; and

C. whereas the Government of India recognizes that infrastructure projects may not always be financially viable because of long gestation periods and limited financial returns, and that financial viability of such projects can be improved through Government support.

D. Now, therefore, the Government of India 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.

1. **Short Title and Extent**

(i) This scheme will be called the Scheme for Financial Support to Public Private Partnerships (PPPs) in Infrastructure. It will be a Plan Scheme to be administered by the Ministry of Finance. Suitable budgetary provisions will be made in the Annual Plans on a year-to- year basis.

(ii) The scheme shall come into force with immediate effect.

2. Definitions

In this scheme, unless the context otherwise requires:

Empowered Committee means a Committee under the Chairmanship of Secretary (Economic Affairs) and including Secretary Planning Commission, Secretary (Expenditure) and the Secretary of the line ministry dealing with the subject.

Empowered Institution means an institution, company or inter-ministerial group designated by the Government for the purposes of this scheme.

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;

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;

Project Term means the duration of the contract or concession agreement for the PPP project;

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 company on the other side, for delivering an infrastructure service on payment of user charges;

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; and **Viability Gap Funding** or **Grant** means a grant one-time or deferred, provided under this Scheme with the objective of making a project commercially viable.

3. Eligibility

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

   (a) The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a Private Sector Company to be selected by the Government or a statutory entity through a process of open competitive bidding; provided that in case of railway projects that are not amenable to operation by a Private Sector Company, the Empowered Committee may relax this eligibility criterion.

   (b) The PPP Project should be from one of the following sectors:

      (i) Roads and bridges, railways, seaports, airports, inland waterways;

      (ii) Power;

      (iii) Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas;

      (iv) Infrastructure projects in Special Economic Zones; and

      (v) International convention centers and other tourism infrastructure projects;

   Provided that the Empowered Committee may, with approval of the Finance Minister, add or delete sectors/sub-sectors from the aforesaid list.

(c) The project should provide a service against payment of a pre-determined tariff or user charge.

(d) The concerned Government/statutory entity should certify, with reasons;

(i) that the tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP;

(ii) that the Project Term cannot be increased for reducing the viability gap; and

(iii) 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.

4. Government Support

(1) The total Viability Gap Funding under this scheme shall not exceed twenty percent of the Total Project Cost; provided that the Government or statutory entity that owns the project may, if it so decides, provide additional grants out of its budget, but not exceeding a further twenty percent of the Total Project Cost.

(2) Viability Gap Funding under this scheme will normally be in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance may be considered by the Empowered Committee and sanctioned with the approval of Finance Minister on a case-by-case basis.

(3) Viability Gap Funding up to Rs. 100 crore (Rs. One hundred crore) for each project may be sanctioned by the Empowered Institution subject to the budgetary ceilings indicated by the Finance Ministry. Proposals up to Rs. 200 crore (Rs. Two hundred crore) may be sanctioned by the Empowered Committee, and amounts exceeding Rs. 200 crore may be sanctioned by the Empowered Committee with the approval of Finance Minister.

(4) Unless otherwise directed by the Ministry of Finance, the Empowered Institutions may approve project proposals with a cumulative capital outlay equivalent to ten times the budget provisions in the respective Annual Plan.

(5) In the first two years of operation of the Scheme, projects meeting the eligibility criteria will be funded on a first-come, first served basis. In later years, if need arises, funding may be provided based on an appropriate formula, to be determined by the Empowered Committee, that balances needs across sectors in a manner that would make

broad base the sectoral coverage and avoid pre-empting of funds by a few large projects.

5. Approval of project proposals.

(1) Project proposals may be posed by a Government or statutory entity which owns the underlying assets. The proposals shall include the requisite information necessary for satisfying the eligibility criteria specified in paragraph 3 above.

(2) Projects based on standardized/model documents duly approved by therespective Government would be preferred.Stand-alone documents may be subjected to detailed scrutiny by the Empowered Institution.

(3) The Empowered Institution will consider the project proposals for Viability Gap Funding and may seek the required details for satisfying the eligibility criteria.

(4) Within 30 days of receipt of a project proposal, duly completed as aforesaid, the Empowered Institution shall inform the sponsoring Government/statutory entity whether the project is eligible for financial assistance under this Scheme. In case the project is based on stand- alone documents (not being duly approved model/standard documents), the approval process may require an additional 60 (sixty) days.

(5) In the event that the Empowered Institution needs any clarifications or instructions relating to the eligibility of a project, it may refer the case to the Empowered Committee for appropriate directions.

(6) Notwithstanding the approvals granted under this scheme, projects promoted by the Central Government or its statutory entities shall be approved and implemented in accordance with the procedures specified from time to time.

(7) In cases where viability gap funding is budgeted under any on-going Plan scheme of the Central Government, the inter-se allocation between such on-going scheme and this scheme shall be determined by the Empowered Committee.

6. Procurement process for PPP Projects

(1) The Private Sector Company shall be selected through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of Viability Gap Funding required by a Private Sector Company for implementing the project where all other parameters are comp arable.

(2) The Government or statutory entity proposing the project shall certify that the bidding process conforms to the provisions of this Scheme and convey the same to the Empowered Institution prior to disbursement of the Grant.

7. Appraisal and monitoring by Lead Financial Institution

(1) Within four months from the date on which eligibility of the project is conveyed by the Empowered Institution to the concerned Government / statutory entity, the PPP project shall be awarded in accordance with paragraph 6 abov e; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Institution may extend this period by not more that two months at a time.

(2) The Lead Financial Institution shall, within three months from the date of bid award, present its appraisal of the project for the consideration and approval of the Empowered Institution; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Institution may extend this period by not more than one month at a time.

(3) The Lead Financial Institution shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purpose of disbursement of Viability Gap Funding. It shall send quarterly progress reports to the Empowered Institution which will make a consolidated progress report once every quarter for review by the Empowered Committee.

8. Disbursement of Grant

(1) A Grant under this scheme shall be disbursed only after the Private Sector Company has subscribed and expended the equity contribution required for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter.

(2) The Empowered Institution will release the Grant to the Lead Financial Institution as and when due, and obtain reimbursement thereof from the Finance Ministry.

(3) The Empowered Institution, the Lead Financial Institution and the Private Sector Company shall enter into a Tripartite Agreement for the purpo ses of this scheme. The format of such Tripartite Agreement shall be prescribed by the Empowered Committee from time to time.

9. Revolving Fund

A revolving fund of Rs. 200 crore (Rs. Two hundred crore) shall be provided by the Finance Ministry to the Empowered Institution.The Empowered Institution shall disburse funds to the respective lead financial Institutions and claim reimbursement thereof from the Ministry of Finance.

10. Guidelines

The Guidelines issued vide Ministry of Finance Press Release as we ll as OM of F. No. 2/10/04-Inf. dated 19th August 2004 stands withdrawn with immediate effect.

Government of Gujarat
Scheme for Financial support to Public Private Partnership in Infrastructure i.e. Viability Gap Fund

Read :

1) A Scheme for support to public Private partnerships in Infrastructure. Issued by Ministry of Finance, Department of Economic Affairs of July,2005.

Preamble :

Ministry of Finance Department, Department of Economic affairs has introduced a scheme for support to public private partnership (PPP) in infrastructure. G.O.I.has made provision to financially support the viability gap to the tune of 20% of the cost of the project in the form of capital grant from its viability gap fund. The scheme is confined to Public Private Partnership projects taken by the Government or its agencies, where the private sector is selected through open competitive public bidding.

Under the scheme of Government of India, a provision has been made that Government of India's support will be limited to tune of 20% of the cost of the Project. It is also mentioned that State Government or its agencies that owns the project may also provide additional grants out of its budget not exceeding further 20% of the total cost of the Project.

Infrastructure Development is a crucial sector as recognized in the current five year plan. Even State Government's vision 2020, envisages huge requirement of 169918 crores considering five years' shelf of projects in various sectors. So the development of infrastructure facilities is of paramount importance for the State in order to ensure flourishing of economic development across all sectors.

The development of Infrastructure Projects requires large investments and cannot be undertaken out of public financing. Similarly such projects are not financially viable on stand alone basis as they have long gestation period and having limited financial return. Hence they are not attractive to the private sector. State Government was therefore considering introducing a new scheme for extending financial support to such PPP Projects in the sectors of infrastructure.

Government Resolution

Accordingly, on due consideration, Government is pleased to introduce a new scheme as under :

1. The Scheme :

The Scheme will be for financial assistance to the projects having Public Private

Partnership in the sectors of Infrastructure. It will known as "Viability Gap Funding Scheme" and will be implemented by GIDB. It will come in force from the date of issue of this G.R. and will remain in operation for the period of 5 years

2. Definitions :

In this Policy, unless the context otherwise requires :

(i) "Empowered Committee" means Executive Committee of GIDB constituted under section 25 of the Gujarat Infrastructure Development Act, 1999

(ii) "Steering Institution" means the Gujarat Infrastructure Development Board (GIDB)

(iii) "Lead Financial Institution" means the financial institution (FI) which is funding the PPP project and in case there is a consortium of FIs, the FI designated as such by the consortium.

(iv) "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.

(v) "Project Term" means the duration of the concession agreement for the PPP Projects, entered in to upon recommendation of the GIDB under section 5 of the GID Act, 1999

(vi) "Public Private Partnership (PPP) Porject" means a project based on a concession agreement between State Government, Government agency or specified Government agency on one side and private sector (company) on the other side, for delivering infrastructure services on payment of user charges, as per the provision laid down under section 9 of the GID Act, 1999.

(vii) "Total Project Cost" means the lower of the total capital cost of the PPP Project; (a) as estimated by the State Government, Government agency or specified Government agency which owns the project. (b) Sanctioned by the Lead Financial Institution, but does not in any case include the cost of land incurred by the State Government, Government agency or specified Government agency;

(viii) "Viability Gap Funding or Grant" means a grant, one – time or deferred, provided under this Scheme with the objective of making a project commercially viable.

3. Eligibility :

(a) The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a Private Sector Company to be selected by the Government or Government agency or specified Government agency through a process of competitive Public Bidding prescribed under section 9 of GID Act, 1999 as amended from time to time. In case of Railway projects that are not amenable to operation by a Private Sector Company, the empowered Committee may relax this eligibility criterion. Provided that the projects where any nature of concession agreement as provided in schedule II of the GID Act, 1999 has been entered into shall be eligible projects under this policy. Provided further that no assistance under this policy can be sanctioned to existing ongoing BOT / BOOT projects.

(b) The PPP Project should be from one of the following sectors :

1. Roads (including but not limited to new alignment, over bridges by passes and / or widening and strengthening and up gradation of existing roads).
2. Ports and it Harbours (including but not limited to construction of ne Ports. Extension and / or capacity augmentation of the existing Ports).
3. Power (including but not limited to generation, transmission and distribution network and modernization or up gradation of existing plant).
4. Urban transport (limited to new or Greenfield systems).
5. Water Supply & Sewerage (including but not limited to water supply through canal, pipeline or any other network and / or widening and strengthening or up gradation of such existing network).
6. Solid waste management (including but not limited to new system and or modernization or improvement of existing system).
7. Tourism and Convention Centres. (Including but not limited to new system and or modernisation or improvement of existing projects).
8. Infrastructure projects in the vicinity of Special Economic Zones

Provided that the Empowered Committee may, with approval of GID Board, add or delete sectors / sub-sectors from the aforesaid list.

(c) The project shall provide a Service against Payment of a pre-determined Tariff or User charges.

(d) The State Government, Government agency or specified Government agency as the case may be, should certify, with reasons :

1. That the tariff / user charges cannot be increased to eliminate or reduce the viability gap of the PPP Project
2. That the Project Term cannot be increased for reducing the viability gap; and.
3. 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

(e) The Scheme shall be applicable to both types of projects i.e. projects where in Government of India has sanctioned assistance under their Scheme and those, wherein such assistance is not sanctioned or the project has not been submitted to Government of India for such assistance.

4. Eligible expenditure and quantum of Assistance

(1) The total viability Gap Funding under this scheme shall not exceed 20% of the Total Project Cost.

(2) Viability Gap Funding under this scheme will normally be in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance may be considered by the Empowered Committee and sanctioned on a case to case basis, with the approval of GIDB.

(3) Viability gap funding and the amount thereof will be sanctioned by the Empowered Committee subject to budgetary ceiling and with regard to the nature of the project and priority of the State including regional and sectoral balance.

(4) In the first two years of operation of the scheme, projects meeting the eligibility criteria will be funded on a first-come, first served basis. In later years, if need arises, funding may be provided based on an appropriate formula, to be determined by Empowered Committee, that balances needs across sectors in a manner that would make broad base the sectroal coverage and avoid preempting of funds by a few large projects.

(5) It shall not be open for the project owner to get benefit of any other Scheme of the State Government when assistance has been sanctioned under this scheme.

5. Approval of Project proposals :

(1) Project proposals may be submitted to GIDB by a State Government, Government agency or specified Government agency which owns the underlying assets. The proposals shall include the requisite information necessary for satisfying the eligibility criteria specified in paragraph 3 above.

(2) Projects based on standardized / model documents duly approved by the State Government would be preferred. Stand-alone documents may be subjected to detailed scrutiny by GIDB.

(3) Empowered Committee will consider the project proposals for Viability Gap Funding and may seek the required details for satisfying the eligibility criteria.

(4) Within 3 months of receipt of a project duly completed as aforesaid, GIDB shall inform State Government, Government agency or specified Government agency as the case may be whether the project is eligible for financial assistance

under this scheme. In case the project is based on stand alone documents (not being duly approved model / standard documents), the approval process may require an additional 60 days.

(5) Notwithstanding the approval granted under this scheme, projects promoted by the State Government or its agencies shall be approved and implemented in accordance with the procedure specified by the Board from time to time.

6. Procurement process for PPP Projects :

(1) The Private Sector Company shall be selected through a transparent and open competitive bidding process, as specified under Section 9 of the GID Act, 1999. The criterion for bidding shall be the amount of Viability Gap Funding required by a Private Sector Company for implementing the project where all other parameters are comparable.

(2) The Government or statutory entity proposing the project shall certify that the bidding process conforms to the provisions of this scheme and convey the same to GIDB prior to disbursement of the grant.

7. Appraisal and monitoring by lead financial institution :

(1) Within four months from the date on which eligibility of the project is conveyed by GIDB to the concern Government / statutory entity, the PPP Project shall be awarded in accordance with paragraph 6 above. Provided that upon application made to it by the concerned Government / statutory entity. GIDB may extend this period by not more than two months at a time.

(2) The Lead Financial Institution shall within three months from the date of bid award, present its appraisal of the project for the consideration and approval of empowered Committee. Provided that upon application of the State Government or concerned agency, Empowered Committee may extend this period by not more than one month at a time.

(3) The Lead Financial Institution shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purpose of disbursement of Viability Gap Funding. It shall send quarterly progress report once every quarter for review by the Empowered Committee.

8. Disbursement of Grant :

(1) A Grant under this scheme shall be disbursed only after the Private Sector Company has subscribed and expended the equity contribution for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter.

(2) Empowered Committee will release the Grant to the Lead Financial Institution

as and when due. In case of additional grant to be released by the local State Government or any other statutory body, the GIDB may release fund under this scheme in proportion to the grant released by such bodies.

(3) The representative of the GIDB, the Lead Financial Institution and the Private Sector Company shall enter into a Tripartite Agreement for the purpose of this scheme. The format of such Tripartite Agreement shall be prescribed by GIDB, GIDB shall disburse funds to the respective lead Financial Institutions and debit as the case may be to :

For General Sector Demand No. 49

M.H. 285 – Industries (800) Other Expenses Minor Head (29) Scheme for Financial support to PPP Project in Infrastructure sectaries. Viability Gap Fund. For Tribal Sector Demand No. 96 MH 2852 – Industries Sub-Major Head (80) General (796) TASP In or head (1) Scheme for Financial Support to PPP Projects in infrastructure sector i.e. Viability Gap Fund.