

Government of Balochistan
PUBLIC PRIVATE PARTNERSHIP UNIT

September 27, 2022

NOTIFICATION

NOTIFICATION NO. 01/2022:- In exercise of powers conferred by Section 30 read with Section 20 and Section 7 of the PPP Act 2021, the Board of Balochistan Public Private Partnership is pleased to notify the following guidelines, namely:-

THE PROJECT DEVELOPMENT FACILITY GUIDELINES, 2022

GLOSSARY

“**Concessionaire**” has the meaning given to it in Section 2(1)(e) of the PPP Act;

“**Executive Committee**” means a committee of the PPP Board established to supervise the administrative functions of the PPP Authority under Section 5(1)(i) of the PPP Act;

“**Government**” means the Government of Balochistan;

“**Government Agency**” has the meaning given to it in Section 2(1)(h) of the PPP Act;

“**Multilateral Financial Institution**” has the meaning given to it in Section 2(1)(l) of the PPP Act;

“**PDF**” or “**Project Development Facility**” means the project development facility, established under Section 20 of the PPP Act, administered by the PPP Authority from which PDF Funding may be availed by the PPP Authority;

“**PDF Application**” means the written application, requesting PDF Funding, to be submitted by the PPP Authority, provided such application covers the minimum information requirements specified in Annexure-A, and where any such minimum information requirement cannot be fulfilled, the PPP Authority provides reasons for the same;

“**PDF Disbursement Conditions**” means conditions for disbursement or release of PDF Funding as specified by the Executive Committee or the PPP Board, as the case maybe;

“**PDF Funding**” means the funding from the PDF to the PPP Authority for engagement of Transaction Advisers for provision of Transaction Advisory Services, upon fulfilment of the PDF Disbursement Conditions in respect of a PPP Project;

“**PPP**” or “**Public Private Partnership**” has the meaning given to it in Section 2(1)(t) of the PPP Act;

“**PPP Act**” means the Balochistan Public Private Partnership PPP Act, 2021;

“**PPP Agreement**” has the meaning given to it in Section 2(1)(u) of the PPP Act;



“**PPP Authority**” has the meaning given to it in Section 2(1)(v) of the PPP Act;

“**PPP Board**” has the meaning given to it in Section 2(1)(p) of the PPP Act;

“**PPP Project**” means a project implemented on a PPP basis;

“**PPP Unit**” has the meaning given to it in Section 2(1)(q) of the PPP Act;

“**Project Proposal**” means the project proposal prepared in the prescribed manner by the PPP Authority for a PPP Project;

“**Transaction Advisers**” means consultants and advisers engaged to provide Transaction Advisory Services;

“**Transaction Advisory Agreement**” means the agreement for Transaction Advisory Services signed between the Transaction Adviser and the PPP Authority;

“**Transaction Advisory Services**” means and includes, without limitation, the advisory or consultancy services for review of Unsolicited Proposals, conducting feasibility studies, preparing Project Proposals and project documents, transaction planning, bidding, transaction execution, and monitoring of PPP Projects as detailed further in Section 7 of these Guidelines;

“**Unsolicited Proposal**” has the meaning given to it in Section 2(1)(y) of the PPP Act; and

“**User Charges**” means the charges the Concessionaire is permitted to charge the end-users or consumers in connection with the performance of its obligations in respect of services provided under a PPP Agreement.



1. INTRODUCTION

- 1.1. The Government is striving towards achieving sustainable and inclusive socio-economic development to uplift the standard of living of the people of Balochistan.
- 1.2. The Government intends to actively engage the private sector and promote investments across potential sectors through PPP mode as a means of delivering physical infrastructure, social services and other public-interest projects in Balochistan.
- 1.3. For the successful promotion and implementation of the PPP program in Balochistan, it is essential to identify commercially viable projects suitable for private sector investment. However, the Government has capacity and resource constraints that impede its ability to proactively develop a pipeline of bankable PPP Projects.
- 1.4. To overcome these constraints, the Government has taken steps to establish a robust legal and regulatory framework for initiation and implementation of PPP Projects. In this regard, the PPP Authority has been established to initiate, structure, develop, procure, negotiate, execute and implement PPP Projects, and the PPP Unit has been staffed with qualified professional resources to, *inter alia*, evaluate projects and provide feedback and advice to the Implementing Agencies at all stages of a PPP Project. Nevertheless, in light of capacity restraints coupled with complexity of PPP Projects, it is recognized that external Transaction Advisory Services are essential to structure viable and bankable PPP Projects.
- 1.5. The cost of engaging such Transaction Advisers cannot be funded solely through the annual budgetary process. Therefore, the PPP Act provides for establishment of the Project Development Facility (PDF) as a key feature of the PPP legal and regulatory framework.
- 1.6. The PDF, which will be administered by the PPP Authority under the direct supervision of the Executive Committee, is envisaged to be a revolving fund established by the Finance Department of the Government. The PDF will be available to pay for the Transaction Advisory Services. The upfront cost of engaging Transaction Advisers to provide Transaction Advisory Services shall be recovered from the Concessionaire.
- 1.7. In case of large and complex projects, the PPP Authority may directly hire the services of a Multilateral Financial Institution to provide transaction and financial advisory services, subject to approval of the Executive Committee or the PPP Board, as the case maybe.
- 1.8. These Project Development Facility Guidelines (these “**Guidelines**”) have been prepared by the PPP Authority and approved by the PPP Board pursuant to Section 20(3) of the PPP Act, and set out the mechanism and procedure for the administration of the PDF and approval and utilization of PDF Funding in the province of Balochistan.

2. ESTABLISHMENT OF THE PDF

- 2.1. The PDF is established, in accordance with Section 20 of the PPP Act, as a non-lapsable fund under the administration of the PPP Authority, subject to supervision of the Executive Committee.



3. SOURCES OF PDF FUNDING

- 3.1. The sources of the PDF may comprise of the following sources:
- (a) grants from the Government;
 - (b) grants from the Federal Government;
 - (c) grants and donations from international donor agencies;
 - (d) grants from Multilateral Financial Institutions;
 - (e) income from investments;
 - (f) funds recovered from Concessionaire under PPP Agreement; and
 - (g) any other lawful sources approved by the Government.
- 3.2. The PDF shall be a ring-fenced, revolving fund replenished through the sources listed in Sub-Section 3.1 above from time to time.
- 3.3. To ensure that the PDF is a revolving facility, the PPP Authority reserves the right to recover the cost incurred for hiring Transaction Advisory Services for a PPP Project from the Concessionaire. While recovering such costs, it must be considered that such inclusion of costs must not result in the PPP Project becoming financially unviable, or adversely impact the end-users by increasing User Charges. The mechanism and terms and conditions for such redeemability (including whether through direct payments or through periodic payments) shall be determined by the PPP Board at the time of granting the final approval for the Project, and such mechanism and terms and conditions shall be specified in the PPP Agreement. The redeemable amount may be included in the overall cost for a PPP Project.
- 3.4. The recovered funds from the Concessionaire must be deposited to the designated PDF account within the time period stipulated in the bidding documents and / or PPP Agreement.

4. PROCESS FOR APPROVAL OF PDF FUNDING

The process for submission of PDF Application, its evaluation and approval shall be as follows:

- 4.1. In all cases of PPP Projects where PDF Funding is required, the PPP Authority shall be the Implementing Agency for purposes of the PPP Act and (unless Project Proposal is initiated by the PPP Authority in the first instance), the concerned Government Agency with a functional board of directors shall submit the Project Proposal to the PPP Authority for initiation, development, negotiation, and implementation.
- 4.2. For PPP Projects which require PDF Funding:



- (a) up to the amount of PKR 50,000,000/- (Pakistani Rupees Fifty Million only), the PPP Authority shall submit a PDF Application to the Executive Committee, for consideration and approval; and
 - (b) for an amount exceeding PKR 50,000,000/- (Pakistani Rupees Fifty Million only), the PPP Authority shall submit the PDF Application and seek approval of the PPP Board through the PPP Unit.
- 4.3. Upon receipt of a PDF Application for PDF Funding up to the amount of PKR 50,000,000/- (Pakistani Rupees Fifty Million only), the Executive Committee shall conduct an independent assessment and consideration of the request for PDF Funding, and shall either:
- (a) approve the PDF Application; or
 - (b) return the PDF Application for amendment and resubmission by the PPP Authority; or
 - (c) reject the PDF Application; or
 - (d) partially accept the amount of PDF Funding requested from the PDF in the PDF Application; and
 - (e) prescribe any PDF Disbursement Conditions for disbursement of PDF Funding from the PDF; and / or
 - (f) prescribe any other condition which is deemed appropriate by the Executive Committee.
- 4.4. Upon receipt of a PDF Application for PDF Funding for an amount exceeding PKR 50,000,000/- (Pakistani Rupees Fifty Million only):
- (a) the PPP Unit shall assess the PDF Application and shall submit its recommendations to the PPP Board for consideration;
 - (b) the PPP Board, taking into consideration the PPP Unit's recommendations, shall either:
 - i. approve the PDF Application; or
 - ii. return the PDF Application for amendment and resubmission by the PPP Authority; or
 - iii. reject the PDF Application; or
 - iv. partially accept amount of PDF Funding requested from the PDF in the PDF Application; and
 - v. prescribe any PDF Disbursement Conditions for disbursement of PDF Funding from the PDF; and / or



- vi. prescribe any other condition which is deemed appropriate by the PPP Board.
- 4.5. Prior to grant of PDF Funding for a Project, the Executive Committee or the PPP Board, as the case may be, assess the matters with respect to project prioritization and initial screening criteria for *inter alia*, project readiness, ease of implementation of the project; economic, social and environmental sustainability and commercial viability.
- 4.6. The PPP Authority shall ensure that there is timely convening of the meeting of the Executive Committee and, where applicable, the PPP Board, to ensure that final approval or decision on PDF Application is given by the Executive Committee or the PPP Board (as the case maybe) within thirty (30) days of such PDF Application being submitted by the PPP Authority. The meeting of the Executive Committee and, where applicable, the PPP Board shall be conducted in accordance with the provisions of the PPP Act and the rules made thereunder.
- 4.7. Before granting final approval on the PDF Applications, the Executive Committee and, where applicable, the PPP Board shall assess and determine with consultation of the PPP Authority that there are sufficient uncommitted funds available in the PDF to disburse payments to the Transaction Advisers as and when necessary. Where sufficient uncommitted funds are not available in the PDF, the PPP Authority, subject to the approval of PPP Board, may request for availability of funds from the Government through budgetary allocation as per the applicable laws.
- 4.8. The PDF Application shall cover the minimum information requirements specified in Annexure-A of these Guidelines.
- 4.9. Where the PPP Authority receives an Unsolicited Proposal in terms of Section 16 of the PPP Act, the PPP Authority may submit a PDF Application to avail PDF Funding for engaging Transaction Advisers to provide Transaction Advisory Services for assessing the technical, commercial, legal, and financial aspects of the Unsolicited Proposal.
- 4.10. The Executive Committee and / or the PPP Board (as may be applicable) may seek any additional information from the PPP Authority pertaining to its PDF Application.
- 4.11. The approval process for PDF Funding has been illustrated in the flowchart set out in Annexure B.

5. MANAGEMENT AND REPORTING OF THE PDF

- 5.1. In accordance with Section 20(2) of the PPP Act, the general management, control, and administration of the PDF shall vest with the PPP Authority under the direct supervision of the Executive Committee.
- 5.2. The PPP Authority shall carry out, without limitation, the following functions in respect of the administration of the PDF:
 - (a) develop and maintain a database of qualified and experienced local and international Transaction Advisers;



- (b) recruit competent Transaction Advisers for Transaction Advisory Services;
 - (c) monitor fulfilment of PDF Disbursement Conditions;
 - (d) keep track of all on-going and potential PPP Projects that have utilized / require PDF Funding;
 - (e) prepare annual financial audited reports as stipulated in Section 8 of these Guidelines;
 - (f) develop and seek PPP Board/Executive Committee approval for an investment plan and invest the surplus sums in the PDF in accordance with such approved investment plan; and
 - (g) any other related act, which is required to promote and achieve successful transaction closure, or which is delegated to the PPP Authority by the PPP Board or Executive Committee from time to time.
- 5.3. The PPP Authority shall separately open and maintain PDF account(s) in any scheduled bank in Pakistan subject to approval of the Finance Department of the Government. The Executive Committee shall monitor such PDF account(s).
- 5.4. The sums in the PDF account(s) shall be utilized for provision of PDF Funding to approved PPP Projects.
- 5.5. The PPP Authority shall, keeping in view of the project pipeline, which may require PDF Funding, prepare estimated annual budget forecasts for approval of the Executive Committee. If the funds from the PDF are depleted faster than its replenishment, then additional budgetary support from the Government maybe sought by the PPP Authority.
- 5.6. The PPP Authority shall submit bi-annual reports on the PDF operations status to the Executive Committee for monitoring by the Executive Committee of the utilization of budgeted amounts from PDF and accounts maintained by the PPP Authority. Such report must include details of the PPP Projects for which PDF Funding has been approved and/or disbursed and their current progress, utilization of PDF Funding, and any other material information.
- 5.7. The PPP Authority shall maintain all accounts, records, data, and documents of the PDF, separately for each PPP Project, in hard copies, in accordance with the relevant Government rules. The data shall also be maintained in soft form on a permanent basis.

6. DISBURSEMENT FROM THE PDF

- 6.1. Provided the PDF Disbursement Conditions are fulfilled, the disbursement of PDF Funding by the PPP Authority under the relevant Transaction Advisory Agreement may take the following forms:
- (a) lump sum payment; or
 - (b) periodical or intermittent payment in instalments.



- 6.2. Upon fulfilment of specified PDF Disbursement Conditions, the Transaction Advisers shall submit an invoice to the PPP Authority, and the PPP Authority shall verify whether the specified PDF Disbursement Conditions have been met. In case of technically sophisticated and complex PPP Projects, the PPP Authority may choose to rely on written certification issued by duly appointed independent third-party adviser(s).
- 6.3. The PPP Authority shall have the right to directly, or through third party, conduct its own audit to directly verify whether the PDF Disbursement Conditions have been met.
- 6.4. Upon receipt of the invoice from the Transaction Advisers and verification that the PDF Disbursement Conditions have been met, or the receipt of written certification by duly appointed independent third-party adviser(s) (if applicable), the PPP Authority shall release the applicable PDF Funding from the PDF.

7. UTILISATION OF PDF FUNDING

- 7.1. PDF Funding may be utilised for engagement of Transaction Advisers to provide Transaction Advisory Services that may include, without limitation, the following services:
 - (a) feasibility and market study to ascertain PPP project viability including;
 - i. an analysis of the feasibility and sustainability of the PPP Project;
 - ii. technical, financial, and socio-economic viability over the expected duration of the PPP Project;
 - iii. environmental impact assessment,
 - iv. analysis of the need for Government support,
 - v. affordability of the PPP Project,
 - vi. determination of the appropriate PPP modality,
 - vii. risk analysis and risk management strategy;
 - (b) developing the Project Proposal including the bidding documents, a draft PPP Agreement and any other project documents that may be required to justify the placement of the case before the PPP Board;
 - (c) transaction planning;
 - (d) conducting the procurement process;
 - (e) transaction execution, including contractual negotiations with the successful bidder i.e., the Concessionaire;



- (f) monitoring of PPP Projects;
- (g) assessment of Unsolicited Proposals; and
- (h) all other relevant PPP activities in relation to the preparation of Project Proposal and/or execution of PPP Projects.

7.2. Transaction Advisory Services shall be structured in two phases. As a first step, a detailed financial feasibility and market study shall be prepared to ascertain the viability of the PPP Project. Only where the PPP Project meets a certain threshold of financial viability for a particular project, the Transaction Advisers shall be required to prepare the bidding documents and other project documents.

7.3. Subject to Section 1.7, Transaction Advisers shall be engaged by the PPP Authority through a procurement process conducted under the applicable procurement laws. Upon conclusion of the procurement process (and prior to award of contract to the successful party), the PPP Authority shall seek approval of the Executive Committee for appointing the selected Transaction Adviser. Following approval of the Executive Committee, the PPP Authority shall negotiate and execute the Transaction Advisory Agreement with the Transaction Adviser.

8. AUDIT

8.1. The PDF account(s) shall be annually audited by a reputable firm of chartered accountants appointed by the PPP Authority on such terms and conditions as may be specified from time to time by the PPP Authority.

8.2. The audited accounts shall be placed before the Executive Committee and final approval shall be sought from the PPP Board.

9. INDEMNITY

9.1. The PPP Board and Executive Committee members, PPP Unit, and representatives of the PPP Authority shall enjoy immunity in all investigations, proceedings, whether judicial or quasi-judicial, in performance of their respective duties and discharge of their official functions involving grant of PDF Funding under these Guidelines and the PPP Act.



**GOVERNMENT OF BALOCHISTAN
PLANNING & DEVELOPMENT DEPARTMENT**

ANNEXURE-A -MINIMUM REQUIREMENTS FOR PDF APPLICATION

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| PPP Project Title | |
| Legal Authority of the PPP Authority for undertaking project on PPP basis | |
| Project Description | |
| Rationale/Likely Impact(s) of the PPP Project including economic and/or social benefits of the PPP Project | |
| Estimated Project Cost (with breakdown) | |
| Development Schedule | |
| Preliminary Risk Identification and Allocation | |
| Sector | |
| Location | |
| Relevance of PPP Project to the overall sector policy and economy | |
| Proposed PPP Modality | |
| Estimated Project Development Expenses (<i>including project documents as applicable, Feasibility Study including financial model, Initial Environmental Examination/Environmental Impact Assessment Report, value for money analysis, Need for Project Support including viability gap funding, draft bidding documents including draft PPP Agreement</i>) | |
| Screening Criteria | |

Enclosure:

- Draft Request for Proposal for Transaction Advisory Services (including Terms of Reference/ Scope of work for Transaction Advisors and Cost Estimate)
- Draft Advertisement for Transaction Advisory Services
- Any other requirement as may be specified



ANNEXURE-B - PDF FUNDING APPROVAL PROCESS

