INFRASTRUCTURE
Building for Growth

Government of India

Guidelines

Financial Support to Public Private Partnerships in Infrastructure

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Secretariat for the Committee on Infrastructure

Preface

This scheme aims at supporting infrastructure projects that are economically justified but fall short of financial viability. The lack of financial viability usually arises from long gestation periods and the inability to increase user charges to commercial levels. Infrastructure projects also involve externalities that are not adequately captured in direct financial returns to the project sponsor. Through the provision of a catalytic grant assistance of up to 20% of the capital costs, several projects may become bankable and help mobilise the much needed private capital and efficiencies.

Support under this scheme would be available only for infrastructure projects where private sector sponsors are selected through a process of competitive bidding. The project agreements must also adhere to best practices that would secure value for public money and safeguard user interests. The scheme would thus incentivise the evolution of sound practices in PPP projects and help eliminate the pitfalls hitherto observed in several PPP projects where adequate 'due diligence' was not observed, in India and elsewhere.

Apart from the financial support to be made available under this scheme, an additional grant of up to 20% can be provided by the sponsoring Ministry or State Government. The lead financial institution for the project shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purpose of grant disbursement.

This scheme was formulated by the Ministry of Finance in consultation with the Planning Commission and other stakeholders. The scheme was considered and approved by the Committee on Infrastructure, chaired by the Prime Minister, and was subsequently endorsed by the Union Cabinet. Following a notification by the Finance Ministry in January 2006, the scheme has been operationalised and assistance to several projects is already under consideration.

This intervention would enable the Government to enhance private sector participation in critical infrastructure sectors. By offering grant assistance of up to 20% of the project costs, the Government will be able to use its scarce budgetary resources to leverage a much larger pool of private capital. At the same time, 'due diligence' by the government and project lenders would help maximise efficiency and value for public money.

(Gajendra Haldea)

Guidelines for Financial Support to Public Private Partnerships (PPPs) in Infrastructure

The guidelines were notified by the Ministry of Finance, Department of Economic Affairs vide O.M. No. 1/5/2005-PPP dated 12th January 2006.

1. Introduction

1.1 The Central Government has notified a scheme for financial support to infrastructure projects that are to be undertaken through Public Private Partnerships (PPP). A copy of the scheme is at Annexure-I.

1.2 The procedure to be followed for submission, appraisal and approval of financial support under this scheme is specified below.

2. Institutional structure

2.1 The institutional structure for appraisal and approval of financial support to PPPs is specified at Annexure-II.

3. Applicability

3.1 These guidelines will apply to PPP projects posed by the Central Ministries, State Governments and statutory authorities, as the case may be, which owns the underlying assets (see Rule 5.1).

3.2 Proposals to be made under this scheme shall be considered for providing Viability Gap Funding (VGF), one time or deferred, with the objective of making a PPP project commercially viable (see definition).

3.3 The proposal shall relate to a Public Private Partnership (PPP) project which is 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 (see definition).

3.4 This scheme will apply only if the contract/ concession is awarded in favour of a private sector company in which 51% or more of the subscribed and paid up equity is owned and controlled by a private entity (see definition).

3.5 A private sector company shall be eligible for VGF only if it is selected on the basis of open competitive bidding and is responsible for financing, construction, maintenance and operation of the project during the concession period (see Rule 3.1).

3.6 The project should provide a service against payment of a pre-determined tariff or user charge (see Rule 3.1).

4. Appraisal and 'in principle' approval by Empowered Institution

4.1 The proposal for seeking clearance of the Empowered Institution shall be sent (in six copies, both in hard and soft form) to the PPP Cell of the Department of Economic Affairs in the format specified at Annexure-III. 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 Project Report (see Rules 3.1 and 5.1).

4.2 The proposal will be circulated by the PPP Cell to all members of the Empowered Institution for their comments. All comments received within four weeks shall be forwarded by the PPP Cell to the concerned Administrative Ministry, State Government or statutory authority, as the case may be, for submitting a written response to each of the comments. In case the project is based on a model concession agreement, the comments will be furnished within two weeks (see Rules 5.2 and 5.4).

4.3 The proposal, along with the project report, concession agreement and supporting agreements/ documents, together with the comments of the respective Ministries and the response thereto, will be submitted by the PPP Cell to the Empowered Institution for consideration and 'in principle' approval.

4.4 While submitting the proposal to the Empowered Institution, the PPP Cell will indicate whether the proposal conforms to the mandatory requirements of the scheme. Deficiencies, if any, will be indicated in the note of PPP Cell. In particular, the Department of Economic Affairs and the Department of Expenditure will examine the proposals with a view to ensuring that they conform to the conditions specified in the scheme. The Planning Commission will examine the project report and the concession agreement with a view to ensuring that the proposal is broadly in order.

4.5 The Empowered Institution will either approve the proposal in principle (with or without modifications) or advise the concerned Ministry, State Government or statutory authority, as the case may be, to provide additional clarifications/ information or to make necessary changes for further consideration of the Empowered Institution (see Rule 5.3).

4.6 Approval under this scheme will be for the purposes of this scheme only. All other statutory, financial or administrative approvals shall be obtained as applicable (see Rule 5.6). For projects owned by the Central Government or its statutory entities, approval of PPPAC shall also be obtained in accordance with the guidelines issued by the Ministry of Finance. However, these approvals may be obtained simultaneously in order to save on time.

4.7 In cases where financial support is available from any other Ministry of the Central Government under an on-going scheme for assistance to PPPs, the proposal would be sent to such Ministry for consideration. In case the Ministry recommends that the proposal be considered for additional assistance under this scheme, the same shall be submitted to the Empowered Committee for consideration (see Rule 5.7).

4.8 Once cleared by the Empowered Institution, the project would be eligible for financial support under this scheme.

5. Viability Gap Funding

5.1 The quantum of financial support (VGF) to be provided under this scheme shall be in the form of a capital grant at the stage of project construction. The amount of VGF shall be equivalent to the lowest bid for capital subsidy, but subject to a maximum of 20% of the total project cost. In case the sponsoring Ministry/ State Government/ statutory entity proposes to provide any assistance over and above the said VGF, it shall be restricted to a further 20% of the total project cost (see Rule 4.1 and 4.2).

6. Invitation to bid

6.1 Financial bids shall be invited by the concerned Ministry, State Government or statutory entity, as the case may be, for award of the project within four months of the approval of the Empowered Institution. This period may be extended by the Department of Economic Affairs, as necessary (see Rule 7.1).

6.2 The private sector company shall be selected through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of VGF required by a private sector company where all other parameters are comparable (see Rule 6.1).

7. Final approval by the Empowered Institution

7.1 Within three months from the date of award, or such extended period as may be permitted, the Lead Financial Institution shall present its appraisal of the project (in six copies, both in hard and soft form) for consideration and approval of the Empowered Institution. The appraisal shall be accompanied by an updated application in the format specified at Annexure-III along with the project report and project agreements. The Lead Financial Institution shall verify the contents of the application and convey its recommendation to the Empowered Institution (see Rule 7.2).

7.2 Prior to final approval by the Empowered Institution, the Ministry, State Government or statutory authority, as the case may be, proposing the project, shall certify that the bidding process conforms to the provisions of this scheme and that all the conditions specified in the scheme have been complied with (see Rule 6.2).

7.3 The procedure specified in para 4 above shall be followed mutatis mutandis for examination and approval of the appraisal report of the Lead Financial Institution.

8. Disbursement of VGF

8.1 Prior to disbursement, the Empowered Institution, the Lead Financial Institution and the private sector company shall enter into a Tripartite Agreement in such format as may be prescribed by the Empowered Committee from time to time (see Rule 8.3).

8.2 For the purposes of this scheme, a Lead Financial Institution shall be the financial institution (FI) that is funding the project, and in case of a consortium of FIs, the FI designated as such by the consortium shall be the Lead Financial Institution (see definition).

8.3 VGF 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 (see Rule 8.1).

8.4 VGF shall be released to the Lead Financial Institution as and when due (see Rule 8.2).

9. Monitoring

9.1 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 purposes of disbursing the VGF. It shall also send a quarterly progress report to the Empowered Institution (see Rule 7.3).

Annexure I

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.

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

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 centres 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 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 the respective 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 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 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 above; provided that upon application made to it by the concerned Government/statutory entity, the Empowered Institution 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 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 purposes 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 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 well as OM of F. No. 2/10/04-INF dated 19th August 2004 stand withdrawn with immediate effect.

Annexure II

Institutional Structure

F.No. 2/10/2004-INF
Government of India
Ministry of Finance
Department of Economic Affairs
Infrastructure-11 Section

New Delhi, the 18th August, 2005

Notification

Subject: Setting up an Empowered Committee and Empowered Institution.

1. Cabinet Committee on Economic Affairs in its meeting of 25th July, 2005 approved the Scheme for Support to Public Private Partnerships in Infrastructure. In pursuance of the decision of the Cabinet, it has been decided to constitute an Empowered Committee and Empowered Institution for approving financial assistance to such projects which satisfy all the eligibility criteria indicated in the Scheme.

2. The composition of Empowered Committee will be as follows:
(i) Secretary (Economic Affairs)
(ii) Secretary (Planning Commission)
(iii) Secretary (Expenditure)
(iv) Secretary of the line Ministry dealing with the subject

3. The Empowered Committee will:
(a) Sanction Viability Gap Funding up to Rs. 200 crore (Rs. Two hundred crore) for each project subject to the budgetary ceilings indicated by the Finance Ministry. Amounts exceeding Rs. 200 crore may be sanctioned by the Empowered Committee with the approval of Finance Minister;

(b) Determine the appropriate formula that balances needs across sectors in a manner that broad bases the sectoral coverage and avoids pre- empting of funds by a few large projects;

(c) Determine the inter-se allocation between any on-going Plan Scheme providing viability gap funding and this Scheme; and,

(d) Provide clarifications or instructions relating to eligibility of a project for such support as and when requested by Empowered Institution.

4. The Composition of the Empowered Institution is as follows:
(i) Additional Secretary (Economic Affairs)
(ii) Additional Secretary (Expenditure)
(iii) Representative of Planning Commission not below the rank of Joint Secretary
(iv) Joint Secretary in the line Ministry dealing with the subject
(iv) Joint Secretary (FT), DEA -- Member Secretary

5. The Empowered Institution will sanction projects for Viability Gap Funding upto Rs. 100 crore (Rs. One hundred crore) for each eligible project subject to the budgetary ceiling indicated by the Finance Ministry. Empowered Institution will also consider other proposals and place them before the Empowered Committee.

6. Eligible Sectors: The sectors eligible for Viability Gap Funding under this Scheme are:
(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 centres and other tourism infrastructure projects;

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

Sd/-
(Pradip K. Deb)
Joint Secretary (FT)

Copy to: All Members of the Empowered Committee

Copy also for information to: Cabinet Secretary

1) Secretary, Planning Commission
2) Secretary, Ministry of Road Transport & Highways
3) Secretary, Department of Shipping
4) Secretary, Ministry of Power
5) Secretary, Civil Aviation
6) Secretary, Tourism
7) Secretary, Ministry of Urban Development
8) Chairman & Ex-officio Principal Secretary (Railway Board)

(Pradip K. Deb)
Joint Secretary (FT)

Annexure III

Memorandum for Empowered Institution

(Scheme for financial support to PPPs in infrastructure)

S.No.	Item	Response
1.	**General**	
1.1	Name of the Project	
1.2	Type of PPP (BOT, BOOT, BOLT, OMT etc.)	
1.3	Location (State/District/Town)	
1.4	Central Ministry/ State Government/ Statutory Authority posing the project as owner of the underlying assets (see Rule 5.1)	
1.5	Name of the government/ statutory entity which will sign the concession agreement (see definition)	
1.6	Whether the contract/ concession is to be awarded to a private sector company (see definition)	
1.7	Will the private sector company be responsible for financing, construction, maintenance and operation of the project (see Rule 3.1)	
2.	**Project Description**	
2.1	Brief description of the project	
2.2	Justification for the project	
2.3	Possible alternatives, if any	
2.4	Estimated total project cost with break-up under major heads of expenditure. Also indicate the basis of cost estimation (see definition)	
2.5	Phasing of investment	
2.6	Project Implementation Schedule (PIS)	
3.	**Financing Arrangements**	
3.1	Sources of financing (equity, debt, mezzanine capital etc.)	
3.2	Indicate the revenue streams of the Project (annual flows over project life). Also indicate the underlying assumptions.	

S.No.	Item	Response
3.3	Indicate the NPV of revenue streams with 12% discounting	
3.4	Who will fix the tariff/ user charges? Please specify the process in detail.	
3.5	Will the project have pre-determined user charges/ tariffs (see Rule 3.1)	
3.6	Can the user charges/ tariffs be increased for reducing the viability gap? If no, please furnish the certificate as per Appendix-A (see Rule 3.1)	
3.7	Can the concession period be increased for reducing the viability gap? If no, please furnish the certificate as per Appendix-B (see Rule 3.1)	
3.8	Can the total project costs be restricted or phased out for reducing the viability gap? If no, please furnish the certificate as per Appendix-C (see Rule 3.1)	
3.9	Have any FIs been approached for funding the project? If yes, their response may be indicated	
4.	**IRR**	
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
5.	**Clearances**	
5.1	In case the project is owned by the Central Government or its statutory entities, the status of PPPAC approval may be indicated	
5.2	Status of environmental clearances	
5.3	Clearance required from the State Government and other local bodies	

S.No.	Item	Response
5.4	Other support required from the State Government	
6.	**GoI Support**	
6.1	Likely amount of VGF required for the project (also indicate as percent of item 2.4)	
6.2	Will the VGF be used as a capital grant at the stage of project construction? If no, please furnish details of the alternative proposal (see Rule 4.2)	
6.3	Will the sponsoring Ministry/ State Government/ statutory entity provide any assistance in addition to the VGF under this scheme? If yes, please furnish details (see Rule 4.1)	
6.4	Is there any other scheme of the Central Government under which this project is eligible for financial assistance? If yes, indicate the details thereof (see Rule 5.7)	
7.	**Concession Agreement**	
7.1	Is the Concession Agreement based on a duly approved model concession agreement? If yes, indicate the details thereof (in a note to be attached) along with a copy of the MCA (see Rules 5.2 and 5.4)	
7.2	Have any variations in the MCA been proposed? If yes, please provide a detailed note (to be attached)	
7.3	Details of the Concession Agreement (attached at Appendix-D)	

S.No.	Item	Response
8.	**Criteria for short-listing**	
8.1	Is short-listing to be in one stage or two stages?	
8.2	Indicate the criteria for short-listing (attach separate sheet if necessary)	
9.	**Criteria for Bidding**	
9.1	Will the bidding parameter be the minimum VGF required? If no, please indicate the bidding parameter(s) (see Rules 3.1 and 6.1)	
9.2	Have all other conditions, specifications and project agreements been frozen prior to inviting financial bids? If no, please furnish the details with justification thereof (see Rule 6.1)	
10.	**Others**	
10.1	Remarks, if any	

The … … … … … … (name of project) has been submitted by the undersigned as the duly authorised officer of … … … … … … (Name of Ministry, State Government or statutory authority, as the case may be) for seeking Viability Gap Funding under the scheme for financial support to PPPs in Infrastructure.

It is certified that the proposal complies with the provisions and eligibility criteria specified in the aforesaid scheme.

The above statements as also the information contained in the enclosures are true to the best of my knowledge and belief.

Dated:

(Name and designation
of Officer alongwith
official stamp)

Annexure III (Appendix A)

Certificate relating to User Charge/ Tariff

(To be furnished as required under Rule 3 of the Scheme for financial support to PPPs in Infrastructure)

It is certified that:

(a) The … … … … … … (name of project) has been submitted by the undersigned as the duly authorised officer of … … … … … … (Name of Ministry, State Government or statutory authority, as the case may be) for seeking Viability Gap Funding under the scheme for financial support to PPPs in Infrastructure.

(b) The undersigned hereby certifies that the proposal complies with the provisions and eligibility criteria specified in the aforesaid scheme.

(c) The user charge/ tariff for the project has been fixed under and in accordance with … … … … … … (state law and rule along with relevant sections). A copy of the relevant Act and Rules is attached.

(d) The user charge/ tariff as fixed for this project is indicated below (attach separate sheet if necessary):

* * *

(e) The aforesaid user charge/ tariff cannot be fixed at a higher level for the reasons stated below:

* * *

(f) That the above statements are true to the best of my knowledge and belief.

Dated:

(Name and designation
of Officer alongwith
official stamp)

Annexure III (Appendix B)

Certificate relating to Concession Period for the Project

(To be furnished as required under Rule 3 of the Scheme for financial support to PPPs in Infrastructure)

It is certified that:

(a) The … … … … … … (name of project) has been submitted by the undersigned as the duly authorised officer of … … … … … … (Name of Ministry, State Government or statutory authority, as the case may be) for seeking Viability Gap Funding under the scheme for financial support to PPPs in Infrastructure.

(b) The concession period for the project has been fixed keeping in view the considerations noted below:

* * *

(c) The aforesaid concession period cannot be increased for the reasons stated below:

* * *

(d) That the above statements are true to the best of my knowledge and belief.

Dated:

(Name and designation
of Officer alongwith
official stamp)

Annexure III (Appendix C)

Certificate relating to Total Project Costs

(To be furnished as required under Rule 3 of the Scheme for financial support to PPPs in Infrastructure)

It is certified that:

(a) The … … … … … … (name of project) has been submitted by the undersigned as the duly authorised officer of … … … … … … (Name of Ministry, State Government or statutory authority, as the case may be) for seeking Viability Gap Funding under the scheme for financial support to PPPs in Infrastructure.

(b) The total project cost for the project is reasonable and has been fixed in accordance with the standards and specifications normally followed for similar projects (attach separate sheet if any details are to be furnished).

(c) That the aforesaid total project costs cannot be reduced for reasons indicated below (attach separate sheet if necessary):

* * *

(d) That the above statements are true to the best of my knowledge and belief.

Dated:

(Name and designation
of Officer alongwith
official stamp)

Annexure III (Appendix D)

Brief particulars of the Concession Agreement

A. Sponsoring Ministry:

B. Name and location of the Project:

C. Legal Consultant:

D. Financial Consultant:

S.No.	Item	Clause No.	Description
1.	**General**		
1.1	Scope of the Project (Please state in about 200 words)		
1.2	Nature of Concession to be granted		
1.3	Period of Concession and justification for fixing the period		
1.4	Estimated capital cost		
1.5	Likely construction period		
1.6	Conditions precedent, if any, for the concession to be effective		
1.7	Status of land acquisition		
2.	**Construction and O&M**		
2.1	Monitoring of construction; whether an independent agency/ engineer is stipulated		
2.2	Minimum standards of Operation and Maintenance/ Performance standards		
2.3	Penalties for violation of prescribed O&M standards/ Performance standards		
2.4	Safety provisions relating to structures, users and construction works		
2.5	Penalties for violation of safety related provisions		
2.6	Environment related provisions		
3.	**Financial**		
3.1	Maximum period for achieving financial close		
3.2	Nature and extent of capital grant/ subsidy stipulated		
3.3	Bidding parameter (capital subsidy or other parameter)		

S.No.	Item	Clause No.	Description
3.4	Provisions for change of scope and the financial burden thereof		
3.5	Concession fee, if any, payable by the Concessionaire		
3.6	User charges/fee to be collected by the Concessionaire		
3.7	Indicate how the user fee has been determined; the legal provisions in support of user fee (attach the relevant rules/ notification); and the extent and nature of indexation for inflation		
3.8	Provisions, if any, for mitigating the risk of lower revenue collection		
3.9	Provisions relating to escrow account, if any		
3.10	Provisions relating to insurance		
3.11	Provisions relating to audit and certification of claims		
3.12	Provisions relating to assignment/ substitution rights relating to lenders		
3.13	Provisions relating to change in law		
3.14	Provisions, if any for compulsory buy-back of assets upon termination/ expiry		
3.15	Contingent liabilities of the government (a) Maximum Termination Payment for Government/ Authority Default (b) Maximum Termination Payment for Concessionaire Default (c) Specify any other penalty, compensation or payment contemplated under the agreement		
4.	**Others**		
4.1	Provisions relating to competing facilities, if any		
4.2	Specify the Dispute Resolution Mechanism		
4.3	Specify the governing law and jurisdiction		
4.4	Other remarks, if any		