

# **PPP-Readiness Self-Assessment**

**Transport and Tourism Division  
UNESCAP**

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This assessment framework was developed based on the outcomes of a number of Expert Group Meetings organized by the UNESCAP secretariat and was also piloted in a country for its further refinement.

Some of the elements of general environment and PPP issues included in the framework are country specific. As such, any application of the framework may require some customization including changes of indicators.

# **PPP-Readiness Self-Assessment**

**Public Private Partnership Readiness – Self Assessment Form**

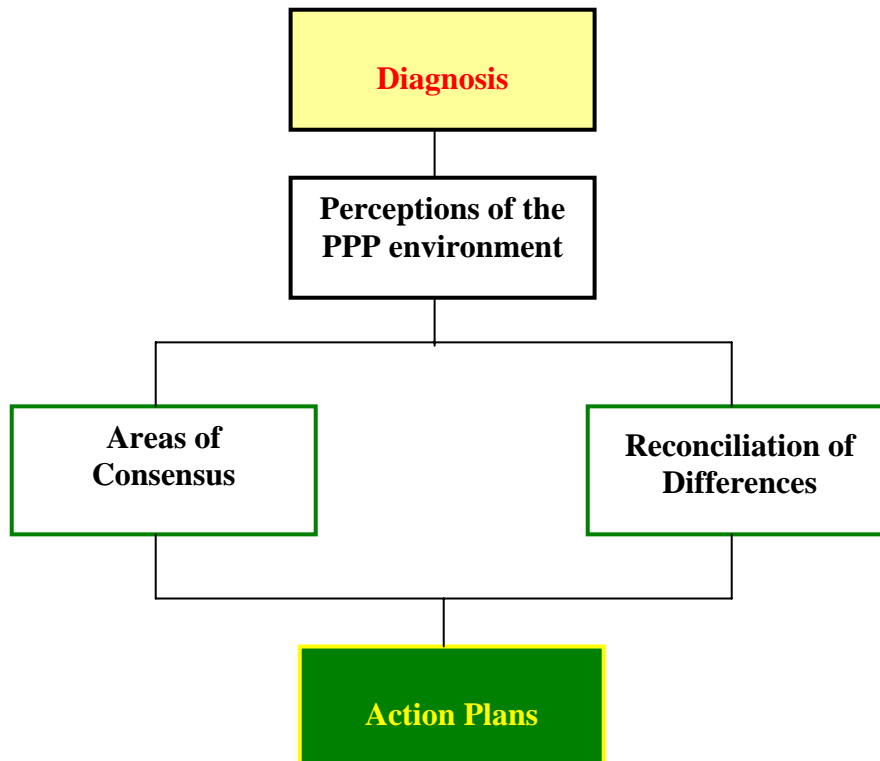
# PPP-Readiness Self-Assessment

## Public Private Partnership Readiness – Self Assessment Form

The aim of this PPP-Readiness Self-Assessment is to provide a diagnostic tool for identifying the key areas that governments need to address in order to involve the private sector more actively in the infrastructure development process.

The key function of the Assessment is that it is to be used to diagnose problems in attracting private investment for infrastructure development as distinct from using it to develop benchmarks against which different sectors or countries could be compared.

The intention of the Assessment is that it is a questionnaire in which all the questions could be answered by small informed groups that have understanding of the investment environment in a country in half a day. Ideally, the groups should comprise of stakeholders with common interests. For example, a public sector group and a private sector group. Having filled out the questionnaire, the groups can discuss the commonality and difference in their perceptions of the PPP environment. Based on their assessment, action plans can be prepared afterwards. The whole assessment process is summarized in the diagram below.



The questionnaire is separated into two parts. Part A with questions 1 to 40 focuses on issues relating to the general investment climate in country. The areas of focus include:

- Macroeconomic environment
- Business climate
- Financial environment
- Legal and governance environment

Some of the questions are quantitative in nature, the data for which can be collected and distributed prior to filling out the questionnaire. Most of the questions, however, are qualitative in nature and will require respondents' value judgment on the performance level of the concerned indicator in the question.

Part B with questions 41 to 98 focuses on questions specifically related to PPPs and are qualitative in nature. The areas to which these question focus include:

- Legal and regulatory provision
- Policy framework
- Capacity
- Project selection and contracting process
- Post-selection process
- Social dimension

In filling out the questionnaires, respondents or groups are required to rate the country's performance against each of the 98 questions on a scale of 0-4 with 4 being the highest score.

In order to assist in the evaluation process, the section on Guidelines in this document provides suggestive definitions for each of the 5 points of the scale.

## Public Private Partnership Readiness - Self Assessment Form

### Part A: Indicators on general background

#### Macroeconomic Environment

Poor

Very Good Moderate Fair

Good

1	GDP growing at an acceptable rate	4	3	2	1	0
2	Satisfactory growth rates in key sectors	4	3	2	1	0
3	Business confidence high	4	3	2	1	0
4	Price stability	4	3	2	1	0
5	Fiscal budget balance	4	3	2	1	0
6	Low unemployment rate	4	3	2	1	0
7	Stable and reasonable real interest rates	4	3	2	1	0
8	Stable exchange rate	4	3	2	1	0
9	Satisfactory balance of payments position	4	3	2	1	0
10	Acceptable debt service ratio	4	3	2	1	0

*Macroeconomic Environment Total* \_\_\_\_\_ *Out of 40*

#### Business Climate

Poor

Very Good Moderate Fair

Good

11	Rational, equitable and predictable taxation policies	4	3	2	1	0
12	Reasonable tax levels for corporations	4	3	2	1	0
13	Possible to register and get permission to start up a new business quickly and easily	4	3	2	1	0
14	Education produces sufficient quantity of sufficiently skilled graduates	4	3	2	1	0
15	Fields of specialized education appropriate for country needs	4	3	2	1	0
16	Physical infrastructure adequate	4	3	2	1	0
17	Precedents shows government to be responsive to PPP business concerns	4	3	2	1	0
18	Commitment to maintain policy continuity	4	3	2	1	0
19	Few restrictions on repatriation of profits	4	3	2	1	0
20	Convertibility of foreign exchange	4	3	2	1	0

*Business Climate Total* \_\_\_\_\_ *Out of 40*

#### Financial Environment

Poor

Very Good Moderate Fair

Good

21	Developed banking system services corporate needs	4	3	2	1	0
22	Developed pension and insurance market	4	3	2	1	0
23	Bond market exists and is open to private participation	4	3	2	1	0
24	Developed equity markets	4	3	2	1	0
25	Effective financial regulatory regime in place	4	3	2	1	0
26	Clear and effective provision for bankruptcy and limited shareholder liability	4	3	2	1	0
27	Credit rating agency(s) exist and offer ratings on individual businesses	4	3	2	1	0
28	Financial sector experienced in assessing long-term lending decisions	4	3	2	1	0

*Financial Environment Total* \_\_\_\_\_ *Out of 32*

## Public Private Partnership Readiness - Self Assessment Form

### *Indicator*

#### **Legal and Governance Environment**

Poor

Very Good Moderate Fair  
Good

29	Property rights effectively enforced, and compensation for expropriation is fair	4	3	2	1	0
30	Effective protection for intellectual property, including business models	4	3	2	1	0
31	Judiciary demonstrates competence, independence and efficiency	4	3	2	1	0
32	Government procurement is fair and transparent in practice	4	3	2	1	0
33	Effective political commitment to eradicate public sector corruption	4	3	2	1	0
34	Political commitment to public and private financial transparency	4	3	2	1	0
35	Government addressing problems of corrupt corporate practices	4	3	2	1	0
36	Community and stakeholder participation in government policy making	4	3	2	1	0
37	Press is free, formally and in practice	4	3	2	1	0
38	Labour legislation effective in protecting workers' wages and safety	4	3	2	1	0
39	Environmental protection adequate	4	3	2	1	0
40	Environmental laws are clear and transparent and are all available from a single source	4	3	2	1	0
<i>Legal Environment Total</i>						<i>Out of 48</i>

## Public Private Partnership Readiness - Self Assessment Form

### Part B: Indicators focusing on PPP issues

#### Legal and Regulatory Provision for PPP

	Very Good	Good	Moderate	Fair	Poor
41 Legal basis for private sector participation in PPP is clearly defined	4	3	2	1	0
42 Limited restriction on participation of foreign investors in PPP projects	4	3	2	1	0
43 <u>Judiciary understands and accepts PPP policy framework</u>	4	3	2	1	0
44 <u>Authority and procedures are clear for acquiring rights of way</u>	4	3	2	1	0
45 <u>Regulatory authority is clear for all PPP types expected</u>	4	3	2	1	0
46 Price and quality of PPP monopolies regulated to protect consumers and others	4	3	2	1	0
47 Price regulation sufficiently flexible to adjust to major cost changes	4	3	2	1	0
48 Powers and resources are adequate to regulate PPP	4	3	2	1	0
49 Accounts of PPP projects available to regulators and subject to effective query	4	3	2	1	0
50 Regulators demonstrate competence, independence and efficiency	4	3	2	1	0
<i>Regulatory Environment Total</i>					<i>Out of 40</i>

#### PPP Policy Framework

	Very Good	Good	Moderate	Fair	Poor
51 Private participation in PPP projects has clear basis in policy, with broad government support	4	3	2	1	0
52 PPP policy has clearly allocated authority and responsibility within the parts of government	4	3	2	1	0
53 Effective process defined for proposing, identifying and structuring projects	4	3	2	1	0
54 Distinct process for unsolicited PPP proposals in policy framework	4	3	2	1	0
55 Policy framework generates commercially viable project proposals	4	3	2	1	0
56 Sectoral competition and regulatory regime chosen to limit market power	4	3	2	1	0
57 Projects are integrated with the national and local planning process	4	3	2	1	0
58 Criteria for project support by government are clearly defined	4	3	2	1	0
59 Project support requirements are integrated with government budget process	4	3	2	1	0
60 Stakeholders can participate in project planning and implementation	4	3	2	1	0
61 PPP policy undergoes evaluation and revision in response to experience	4	3	2	1	0
<i>PPP Policy Framework Total</i>					<i>Out of 44</i>

#### PPP Capacity

	Very Good	Good	Moderate	Fair	Poor
62 PPP process has sufficient political support, due to positive record or political "champion"	4	3	2	1	0
63 Defined government mechanisms in place to coordinate PPP needs	4	3	2	1	0
64 Staff of relevant government agencies have resources/information for managing PPP process	4	3	2	1	0
65 Staff aware of legal, financial and basic technical issues in PPP projects	4	3	2	1	0
66 Staff capable of routine operations in PPP project development	4	3	2	1	0
67 Technical capacity sufficient to ensure construction and service standards	4	3	2	1	0
68 Staff can assess outside work, including feasibility studies and risk mitigation strategies	4	3	2	1	0
69 PPP documentation/best practices available in public domain	4	3	2	1	0
70 Adequate resources/facilities and expertise to train in PPP	4	3	2	1	0
71 Provision for assisting line agencies and local government in undertaking PPP projects	4	3	2	1	0
<i>PPP Capacity Total</i>					<i>Out of 40</i>

## Public Private Partnership Readiness - Self Assessment Form

### *Indicator*

#### **PPP Process: Project selection and contracting**

**Very Good   Good   Moderate   Fair   Poor**

72	Predictable staging of project identification, selection and contracting	4	3	2	1	0
73	Transparent procedures specified for all stages of the PPP process	4	3	2	1	0
74	Project feasibility studies undertaken for larger proposals	4	3	2	1	0
75	Environmental and social impact assessment required	4	3	2	1	0
76	Customer safety assessment fully incorporated	4	3	2	1	0
77	Bidders given proper information, including requirements for submitting proposals	4	3	2	1	0
78	Verification of business information used in sponsor selection	4	3	2	1	0
79	Conflict of interest results in exclusion from contracting	4	3	2	1	0
80	Competitive tendering process is transparent in practice	4	3	2	1	0
81	Objective criteria for project sponsor selection are known and applied	4	3	2	1	0

*PPP Process Total* \_\_\_\_\_ *Out of 40*

#### **PPP Process: Post-Selection**

**Very Good   Good   Moderate   Fair   Poor**

82	Defined performance requirements available prior to bidding	4	3	2	1	0
83	Performance monitoring effective and transparent	4	3	2	1	0
84	Arrangements for risk sharing are sensible and manageable	4	3	2	1	0
85	Contracts for PPP are irrevocable except through due process	4	3	2	1	0
86	Penalties enforced for failure to meet contractual obligations	4	3	2	1	0
87	Conflict resolution process clear, including alternatives to judicial resolution	4	3	2	1	0
88	International arbitration recognized and effective for dispute resolution	4	3	2	1	0
89	Technical regulation is appropriate to project requirements	4	3	2	1	0
90	Rulings by technical and economic regulators can be appealed	4	3	2	1	0

*PPP Process Total* \_\_\_\_\_ *Out of 36*

#### **Social Dimension of PPP Policy**

**Very Good   Good   Moderate   Fair   Poor**

91	Civil society views PPPs as viable means of providing infrastructure and basic services	4	3	2	1	0
92	Programme to educate the public concerning the need for user-pays principle	4	3	2	1	0
93	Planning system addresses the needs of the poor and marginalized	4	3	2	1	0
94	Pricing policies reflect the needs of the poor in basic services	4	3	2	1	0
95	Funds available for projects with added social welfare purpose	4	3	2	1	0
96	Community instruments (such as cooperatives) for equity participation in PPP available	4	3	2	1	0
97	Mechanism for undertaking community-based infrastructure projects using PPP	4	3	2	1	0
98	Resettlement and rehabilitation provided for communities disrupted by PPP projects	4	3	2	1	0

*Social Environment Total* \_\_\_\_\_ *Out of 32*



## Public Private Partnership Readiness - Self Assessment Form

<i>Macroeconomic Environment</i>	_____	<i>Out of 40</i>
<i>Business Climate</i>	_____	<i>Out of 40</i>
<i>Financial Environment</i>	_____	<i>Out of 32</i>
<i>Legal Environment</i>	_____	<i>Out of 48</i>
<i>Legal and Regulatory Provisions</i>	_____	<i>Out of 40</i>
<i>PPP Policy Framework</i>	_____	<i>Out of 44</i>
<i>PPP Capacity</i>	_____	<i>Out of 40</i>
<i>PPP Process: Project Selection</i>	_____	<i>Out of 40</i>
<i>PPP Process: Post Selection</i>	_____	<i>Out of 36</i>
<i>Social Dimension</i>	_____	<i>Out of 32</i>
		<i>Add to get</i>
<i>Public Private Partnership Readiness</i>	_____	<i>Out of 392</i>

# **PPP-Readiness Self-Assessment**

## **Guidelines for Public Private Partnership Self-Assessment**

# **PPP-Readiness Self-Assessment**

## **Guidelines for Public Private Partnership Self-Assessment**

### **Introduction**

The public private partnership self-assessment is designed to give policymakers, advisers and stakeholders an easy way to assess their country's ability to conduct PPP projects. Over the past 30 years, public private partnerships have increasingly come to be seen as an answer to lack of government finance or expertise in supplying services to the public. Traditionally PPP projects have been most often utilized in the infrastructure sector to provide basic services and transportation, but provision of all sorts of services is possible (for example, hospitals and jails). Often governments find themselves in the position of being responsible for services for which they have woefully little funding, and responsible for building projects for which there is little or no technical expertise locally available.

PPP projects are partnerships between government and a private firm to provide services formerly supplied by the government alone. The government is able to undertake more projects or projects that are technically more difficult, while the firm receives profits from the project, usually for a set period of time.

There are two parties to a PPP project, the firm and government, and the needs and interests of both parties must be met and represented if PPP projects are to be successful. For the firm the goals are often as simple as monetary return and increased reputation. The government's goals are more complicated, but will usually include the successful completion of the project in a way that protects the environment, treats those involved in the project fairly (e.g. workers), meets the needs of the stakeholders including poor and marginalized groups, and compensates those who are displaced by the project.

The indicators below try to take into account the goals of both groups, but the goals of the firm are given more weight. That is because it is assumed that this self-assessment will be used primarily by government officers who are clear in their own goals, but hope to attract more PPP projects to their country or community.

Both parties benefit from clear and transparent rules and contracts, dispute resolution mechanisms, clear and orderly financial relations and overall good PPP management, so many of the indicators in this self-assessment are of interest to both parties.

The PPP self-assessment consists of two parts:

The PPP self-assessment form - a five page form with 98 indicators, designed to be filled out by government officials, or anyone interested in the PPP projects. The form is divided into 10 parts, with about ten questions in each part. Each part is designed to answer a different question about PPP readiness. By comparing scores on the various parts, officials can find areas in which their country is weak.

This document is the guide to the PPP self-assessment, which provides background on PPP, guidelines for filling the assessment form and background information about each of the variables. In addition there is an index which shows related variables so that, for instance, it would be possible to find all the variables related to environment among the 98 categories. This should facilitate the creation of special purpose categories for those with specialized interests.

This document is entitled Guidelines for PPP Self-Assessment, intentionally to suggest that the definitions included here are only guidelines. It is hoped that the self-assessment form is clear enough that individuals will be able to fill in most of it without referring back to the guidelines. Although the guidelines are written as generally as possible it is impossible to address every situation to arise in each country. The participant is urged to use his or her own judgment in determining the scale of each criterion. The guidelines also serve the ancillary purpose of helping to teach participants what is useful and important for successful PPP projects.

The next part of this document is the table of contents, followed by a brief description of each of the 98 indicators, including suggested guidelines for scaling each variable.

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## **Part A: Indicators on general background environment**

### **Macroeconomic Environment**

This section includes variables that measure the strength and stability of the economy. A strong and stable economy will encourage foreign firms to invest in PPP projects and will protect the government from the possibility of project failure due to larger macroeconomic shocks. The indicators should be seen as predicting the likelihood of avoiding three types of threat – a recession, a rapid inflationary spiral, or a foreign exchange crisis. Guidelines referring to the most recent past are meant to provide a realistic basis for assessing such threats, but respondents may need to modify their assessments, based on recently emerging trends. Caution is urged, to avoid exaggerating the threats posed by such trends.

***\*\*The following 3 indicators are included as measures of economic growth\*\****

#### **1. GDP growing at an acceptable rate**

GDP is the most commonly reported summary statistic for most economies. Its rate of increase measures how fast the economy is growing, which generally is perceived as a measure of health and growth. Here it is used with the understanding that faster growth creates more demand for projects and greater chances for profits among private enterprises.

##### *Scaling Guidelines*

- 4 – GDP growth rate has averaged greater than 6 per cent in the last 2 years
- 3 – GDP growth rate has averaged between 4 and 6 per cent in the last 2 years
- 2 – GDP growth rate has averaged between 2 and 4 per cent in the last 2 years
- 1 – GDP growth rate has averaged between 0 and 2 per cent in the last 2 years
- 0 – GDP growth rate has averaged less than 0 per cent in the last 2 years

#### **2. Satisfactory growth rates in key sectors**

It is expected that as a country develops the manufacturing and service sectors necessarily must develop as well. These sectors contain the bulk of modern production. They are the most likely to require technically advanced and highly motivated service available through PPP projects. This indicator judges whether their growth is progressing in a manner that will support demand for PPP as well as fiscal soundness for PPP support.

##### *Scaling Guidelines*

- 4 – Manufacturing and Service Sectors have grown by more than 5 per cent in each of the last 2 years
- 3 – Manufacturing and Service Sectors have grown by more than 2 per cent in each of the past 2 years
- 2 – Manufacturing and Service Sectors have been roughly stable in each of the past 2 years
- 1 – Manufacturing and Service Sectors have declined slightly in each of the past 2 years
- 0 – Either Manufacturing or Services has deteriorated significantly over the past 2 years



### **3. Business confidence high**

Business confidence reflects business' future expectations about economic conditions and the returns to investment. Although it is closely aligned with a number of other macroeconomic variables, this indicator is included as a forward-looking indicator of growth, and as a way to capture many other economic factors not included here for reasons of space. If regular surveys of business confidence are not available, perceptions of current confidence are probably still valuable.

#### *Scaling Guidelines*

- 4 – Business confidence is high relative to historical levels
- 3 – Business confidence is moderately high relative to historical levels
- 2 – Business confidence is near average historical levels
- 1 – Business confidence is low relative to historical levels
- 0 – Business confidence is very low relative to historical levels

***\*\*The following 4 indicators are included as measures of domestic economic stability\*\****

### **4. Price stability**

Price stability refers to the level of inflation in a country. If inflation appears to be out of control, firms will be anxious about variability in costs and financing. Also the overall stability of the country's economy and governance will be lower. We recognize that deflation, a negative annual rate of price increase, or the threat of deflation can be a problem as well, since it is usually a signal of economic stagnation.

#### *Scaling Guidelines*

- 4 – Inflation rate has been between 1 and 3 per cent over the past 2 years
- 3 – Inflation rate has been between 3 and 5 per cent over the past 2 years
- 2 – Inflation rate has been between 0 and 1 per cent or between 5 and 7 per cent over the past 2 years
- 1 – Inflation rate has been between -1 and 0 per cent or between 7 and 12 per cent over the past 2 years
- 0 – Inflation rate has been less than -1 or more than 12 per cent over the past 2 years

### **5. Fiscal budget balance**

Fiscal budget balance refers to the ability of the government to stay within its budget. If the government budget is in deficit, it increases the risk that PPP projects will be delayed or abandoned, as well as reflecting a lack of sustainability of government policies which could lead to regime change. Here the deficit is measured as a percentage of GDP.

#### *Scaling Guidelines*

- 4 – Fiscal budget is balanced or in slight surplus
- 3 – Fiscal budget is in deficit not more than 1 per cent
- 2 – Fiscal budget is in deficit not more than 3 per cent
- 1 – Fiscal budget is in deficit not more than 6 per cent
- 0 – Fiscal budget is in deficit more than 6 per cent of GDP

## **6. Low unemployment rate**

Although a high unemployment rate may give greater access to labor for PPP firms, it is also a serious sign that an economy is out of equilibrium and may not be stable. High unemployment generally leads to high costs to other groups in the society such as the government, business, or those people who are working. (Although economic theory specifies unemployment relative to a natural rate, that natural rate of “structural unemployment” should not be too high - perhaps at most 5 per cent in the formal sector, depending on how often individuals change jobs in the society. Likewise structural underemployment should be below crisis levels and not exert too strong a drag on economic growth).

### *Scaling Guidelines*

- 4 - Unemployment averages less than 3 per cent over the past 2 years, and underemployment is moderate and falling
- 3 - Unemployment less than 6 per cent, and underemployment not growing systematically
- 2 - Unemployment less than 10 per cent and underemployment not growing rapidly
- 1 - Unemployment less than 15 per cent and underemployment not growing at a crisis pace
- 0 - Unemployment greater than 15 per cent or underemployment growing by more than 10 per cent per year

## **7. Stable and reasonable real interest rates**

PPP firms are concerned about planning their future expenses. Unpredictable or excessive interest rates make this difficult. Unstable interest rates point to instability in the economy as well. Real interest rates (interest rates less inflation) reflect the actual cost/return to capital of the firm. For reference to the guidelines, use 1 year rates for major firms.

### *Scaling Guidelines*

- 4 – Real interest rates have stayed between 1-3 per cent over the past 2 years.
- 3 – Real interest rates have stayed between 0-4 per cent over the past 2 years.
- 2 – Real interest rates have stayed between -1 to 6 per cent over the past 2 years.
- 1 – Real interest rates have stayed between -2 to 8 per cent over the past 2 years.
- 0 – Real interest rates have not stayed between -2 to 8 per cent over the past 2 years.

***\*\*The following 3 indicators are included as measures of external balance and stability\*\****

## **8. Stable exchange rate**

Stable exchange rates are important for firms who may want to repatriate profits, who may import raw materials, and who are choosing projects based on expected return. They are also an important indicator of the country's external position and stability. Devaluation is more likely to signal economic trouble than appreciation, but rapid swings in either direction are danger signs. In general the exchange rate should be measured against a basket of the major world currencies.

### *Scaling Guidelines*

- 4 – Exchange rate is set using a managed float and has varied less than 5 per cent per year against a basket of major currencies in the past two years
- 3 – Exchange rate is fixed to a reference currency and has not been devalued in the past two years
- 2 – Exchange rate has fallen less than 10 per cent per year against major currencies in the past two years
- 1 – Exchange rate has varied between 10 per cent and 20 per cent against major currencies in the past year
- 0 – Exchange rate has varied more than 20 per cent against major currencies in the past year

## **9. Satisfactory balance of payments position**

This is a forward-looking measure that has implications for the exchange rate, capital transfer, and industrial production. The balance on the current account should ideally be near zero, though it may vary from zero for a variety of positive or negative reasons. It is generally accepted that a large current account deficit increases the risks of devaluation or depreciation, which would be a negative factor for a PPP firm if foreign transactions are involved. A large current account surplus would normally not be a problem, but may be a counterpart to unhealthy capital outflows.

### *Scaling Guidelines*

- 4 – Current account has averaged between -1 to 1 per cent of GDP for the past two years.
- 3 – Current account has averaged between -2 to 2 per cent of GDP for the past two years.
- 2 – Current account has averaged between -4 to 4 per cent of GDP for the past two years.
- 1 – Current account has averaged between -6 to 6 per cent of GDP for the past two years.
- 0 – Current account deficit or surplus was greater than 6 per cent of GDP for the past two years.

## **10. Acceptable debt service ratio**

The debt service ratio refers to the share of exports that must be spent in external debt payments. If foreign debt is large, much of current revenue is spent on paying for past

expenditure, and the country's external sector is at risk from external shocks. PPP firms would face risks from exchange rate adjustments and government default.

#### *Scaling Guidelines*

- 4 – Foreign debt service requires less than 5 per cent of exports
- 3 – Foreign debt service requires less than 10 per cent of exports
- 2 – Foreign debt service requires less than 15 per cent of exports
- 1 – Foreign debt service requires less than 20 per cent of exports
- 0 – Foreign debt service requires more than 25 per cent of exports

### **Business Climate**

This category measures how desirable the country is, as a place for businesses to operate and invest. Issues include fair taxation, ease of operation, access to factors of production and ability to take profits out of the country. Many of these variables will affect all firms, but a few (convertibility) are mainly important for foreign firms.

***\*\*The following 3 indicators are included as measures of registration and taxation policy\*\****

#### **11. Rational, equitable and predictable taxation policies**

Taxation systems can be complicated and difficult to understand. Some taxes may not be transparent at first, and may even not be the same for all firms. A tax system that is transparent and equitable helps PPP firms to plan and to operate effectively.

#### *Scaling Guidelines*

- 4 – Tax code is transparent, clearly documented and easy to use.
- 3 – Tax code is transparent, documented, but sometimes confusing and not so easy to use.
- 2 – Tax policies are equitable, but very complicated and difficult to use.
- 1 – Tax policies are complicated, inconsistent, and may be biased against foreign firms.
- 0 – Tax policies are arbitrary, and not based on rational principles or legal documents.

#### **12. Reasonable tax levels for corporations**

PPP firms typically face regulated prices and pressures to maintain low costs. If excessive tax burdens limit their room for maneuver, the most capable firms may resist participation. Requirements for imported equipment may leave these firms particularly vulnerable.

#### *Scaling Guidelines*

- 4 – Overall tax burden comparable to low-tax (large) countries.
- 3 – Overall tax burden comparable to typical developing countries.
- 2 – Overall tax burden somewhat high: business decisions pressured to keep taxes down.
- 1 – Tax burden excessive: business decisions sacrifice other priorities to minimize tax burden.
- 0 – Taxes very heavy. Ability to operate effectively is threatened by high taxes.

**13. Possible to register and get permission to start up a new business quickly and easily**

The speed and ease with which new businesses receive official permission to operate represents the extent to which government cooperates with enterprise or, alternatively, assists in rent-seeking. Important are 1) the number of places that must be visited to register a business, 2) the actual number of steps / agencies that must be dealt with, and 3) the actual average time to establish a new enterprise. The first and second of these can be roughly captured by measuring the third.

*Scaling Guidelines*

- 4 – Average time to establish a new business is less than 1 month
- 3 – Average time to establish a new business is less than 2 months
- 2 – Average time to establish a new business is less than 4 months
- 1 – Average time to establish a new business is less than 8 months
- 0 – Average time to establish a new business is more than 8 months

***\*\*The following 3 indicators are included as measures of access to factors of production\*\****

**14. Education produces sufficient quantity of sufficiently skilled graduates**

Skilled and semi-skilled labor is important for most projects. General skills, such as literacy and arithmetic, as well as the discipline of working under leadership, are learned in primary school. Workers with secondary and vocational education may be needed, and if tertiary education graduates are available it improves the prospect of many PPP projects and permits more participation by local firms.

*Scaling Guidelines*

- 4 – Secondary education near universal, tertiary graduates above 10 per cent of age cohort, and quality of general education matches international standards by level.
- 3 – Secondary or vocational education rate above 60 per cent, tertiary rate above 5 per cent, and quality not notably deficient in most cases.
- 2 – Secondary or vocational education rate above 40 per cent, tertiary rate supplies some of needs, and quality not usually seriously deficient.
- 1 – Primary rate above 80 per cent, secondary or vocational above 25 per cent, quality minimally adequate.
- 0 – Education levels clearly inadequate, making modern production a challenge.

## **15. Fields of specialized education appropriate for country needs**

Specialized skills, including foreign language training and technological literacy, may be vital to infrastructure development. An adequate supply of the right skills can affect the ability of firms to produce effectively, and the degree of integration of local producers into PPP projects.

### *Scaling Guidelines*

- 4 – Specialized skills readily available at a suitable level of quality.
- 3 – Specialized skills generally adequate: most ordinary positions can be filled locally.
- 2 – Specialized skills significantly lacking: expensive expatriates or unqualified persons must be substituted.
- 1 – Specialized skills a serious problem, causing local firms to often be uncompetitive with multinationals.
- 0 – Supply of a broad range of specialized skills is clearly inadequate.

## **16. Physical infrastructure adequate**

For most projects, the greater the level of physical infrastructure available, the easier it will be to undertake the project. Physical infrastructure includes water, electricity, ports, roads, telecom, and waste treatment.

### *Scaling Guidelines*

- 4 – Infrastructure reliable, up-to-date and sufficiently available.
- 3 – Infrastructure adequate, with limited congestion and other problems.
- 2 – Infrastructure problems easily managed, but at noticeable cost.
- 1 – Infrastructure a serious barrier to effective performance
- 0 – Private firms would need to add to infrastructure in order to meet own requirements

***\*\*The following 2 indicators are included as measures of government's responsiveness to business concerns\*\****

## **17. Precedents show government to be responsive to business concerns**

Governments usually establish a culture of either resistance or cooperation in responding to business problems. If there is a history of cooperation and negotiation in past problems, a reputation for equitable dealings will give PPP firms confidence that problems can be solved if they arise.

### *Scaling Guidelines*

- 4 – Government has a very positive reputation in terms of solving business problems
- 3 – Government has a somewhat positive reputation in terms of solving business problems
- 2 – Government is perceived as neutral or not opposed to business interests
- 1 – Government somewhat resistant to business concerns
- 0 – Government perceived as intransigent and uncooperative about business problems

## **18. Commitment to maintain policy continuity**

Many policies can affect the ability of a PPP firm to operate. If policies change easily or frequently, it makes it difficult for the PPP firm to operate. In particular, if the government has a history of changing the rules in relation to its partners, it will discourage interest in PPP projects.

### *Scaling Guidelines*

- 4 – Policies are developed slowly with careful thought, and change slowly
- 3 – Policies are developed slowly but without careful thought, and change slowly
- 2 – Policies are developed rapidly with little consultation, but are likely to be maintained afterwards
- 1 – Policies are developed rapidly, and sometimes abandoned as the government changes position
- 0 – Government changes policies freely to meet political needs

***\*\*The following 2 indicators address repatriation of profits\*\****

## **19. Few restrictions on repatriation of profits**

Because of scarce local capital or technology, many PPP firms will be foreign companies. It is important to these firms to be allowed to take their profits out of the country to the home country.

### *Scaling Guidelines*

- 4 – No restrictions on removing income from the country
- 3 – Most types of profit can be taken out of the country
- 2 – Firms must maintain extra accounting categories because only certain types of profit can be taken out of country
- 1 – Profits cannot be taken out of country except with special permission of the government
- 0 – Firms must keep profits inside the country

## **20. Convertibility of foreign exchange**

Even if there are no rules against repatriation of profits, it may be difficult or time consuming for PPP firms to transfer their profits into their own domestic currency. Therefore ease and reliability or being able to convert currency are important.

### *Scaling Guidelines*

- 4 – Currency is freely convertible at any time and is liquid
- 3 – Currency is freely convertible with minor paperwork requirements and justification
- 2 – Currency is convertible with appropriate documentation for government – may take some time to transfer profits.
- 1 – Currency is convertible, but in seriously restricted quantities, or only for specific purposes
- 0 – Currency generally not convertible

## Financial Environment

Indicators in this category measure the ability to find funding for PPP projects through a variety of mechanisms. Also included are some indicators that measure the overall strength and capacity of the financial system.

***\*\*The following 3 indicators relate to the basic development of the financial system \*\****

### **21. Developed banking system services corporate needs**

Handling finances domestically will be greatly facilitated if the country has a well-developed banking system, with a variety of financial products and instruments intermediating between depositors and borrowers.

#### *Scaling Guidelines*

- 4 – Banking system offers a full range of business services such as electronic transfers, corporate banking and trade credit, as well as conveniences like credit cards and automatic tellers
- 3 – Banking system offers a full range of business services, but lacks modern conveniences
- 2 – Banking system offers most payment services, and functions effectively as an intermediary
- 1 – Banking system relies on personal contacts and paper records, with little skill in credit rating
- 0 – Banking system non-existent or undeveloped in practice

### **22. Developed pension and insurance market**

The pension and insurance markets represent an important source of funds for many PPP projects, as they are two of the few sources of long-term capital in some countries. In addition they are well suited for PPP financing as the duration of PPP debt is similar to their liabilities, and government guarantees are often given, making the PPP risk profile attractive to pension and insurance.

#### *Scaling Guidelines*

- 4 – Pension and Insurance markets exist and are free to invest in PPP projects
- 3 – Pension and Insurance markets exist and can invest in PPP projects in some cases
- 2 – Pension and Insurance markets usually cannot invest in PPP projects or are too small to represent a significant source of project funds
- 1 – Pension or Insurance markets are currently too limited to supply funds to projects
- 0 – No Pension or Insurance markets exist



### **23. Bond market exists and is open to private participation**

Bond markets are another common way to raise funds. Bonds are issued to pay for the project. It is important that private firms can issue bonds, and that there is an open market for trade, which allows private companies or individuals to buy the bonds.

#### *Scaling Guidelines*

- 4 – A bond market is thriving: firms and the government regularly issue and trade bonds
- 3 – Bonds are traded in a liquid market open to private participation
- 2 – Bond market exists, and bonds are traded in a generally liquid market, but are not easily traded by individuals or firms
- 1 – Private bond market is severely limited
- 0 – Few or no bonds issued

### **24. Developed equity markets**

Markets for company shares provide a useful method for funding PPP projects. If these are deep markets with adequate registration and regulation, the resulting liquidity will decrease the cost of equity finance.

#### *Scaling Guidelines*

- 4 – Well-developed equity markets represent an attractive source of capital.
- 3 – Equity markets permit orderly public share offerings and adequate secondary trading.
- 2 – Equity markets can be tapped for capital, despite significant transactions costs.
- 1 – Equity markets under development, with legal basis and regulation being addressed.
- 0 – Equity capital must be obtained privately.

**\*\*The following 4 indicators relate to other important components of a developed financial system\*\***

### **25. Effective financial regulatory regime in place**

Regulation is critical to a financial system, partly to avoid illegal behavior and partly to help manage corporate and systemic risk. Having an effective financial regulatory regime in place reduces risk for the PPP firm and the government.

#### *Scaling Guidelines*

- 4 – Financial regulatory regime exists, has strong powers, and is implemented
- 3 - Financial regulatory regime exists, and is frequently utilized
- 2 - Financial regulatory regime exists, but has little power
- 1 - Financial regulatory regime under development
- 0 – No financial regulatory regime exists

## **26. Clear and effective provision for bankruptcy and limited shareholder liability**

Firms and the government benefit from bankruptcy laws in several ways. As creditors it helps each party to quickly obtain as much of its loan as possible. As debtors, it limits liability that may protect individuals or a base company at home.

### *Scaling Guidelines*

- 4 – Bankruptcy laws have been used extensively, developing expertise in anticipating issues
- 3 - Bankruptcy laws exist and have been used successfully on several occasions in the past
- 2 - Bankruptcy laws exist and have been used at least once in the past
- 1 - Bankruptcy laws under development
- 0 – No formal bankruptcy laws exist

## **27. Credit rating agency(s) exist and offer ratings on individual businesses**

Credit rating agencies increase the ability of firms to raise capital and issue bonds by reducing the uncertainty investors experience. This may lead to lower capital costs for PPP firms and greater security when dealing with other local companies.

### *Scaling Guidelines*

- 4 – Credit rating agency rates banks and most large firms
- 3 – Credit rating agency rates banks and a few large firms
- 2 – Credit rating agency exists and has rated at least a few banks or firms
- 1 – Credit rating agency under development
- 0 – No credit rating agency exists

## **28. Financial sector experienced in assessing long-term lending decisions**

Long-term finance may be assembled by bankers if they have the capacity for assessing and coping with risk. By contrast, banking sectors which have been primarily directed by the government may not even have learned to assess the financial soundness of borrowers and the profitability of proposed investments. While international sources of finance are available, the risk to the country's system is reduced when long-term finance is available internally.

### *Scaling Guidelines*

- 4 – Domestic financial sector skilled and experienced in long-term finance
- 3 – Domestic financial sector has proven competence in assessing long-term finance decisions
- 2 – Domestic financial sector has some limited experience with long-term finance
- 1 – Domestic financial sector has experience and capacity assessing loan applications, but not with long-term horizons
- 0 – Domestic financial sector has severe limitations in capacity for assessing loan applications

## Legal and Governance Environment

### **29. Property rights effectively enforced, and compensation for expropriation is fair**

A fundamental pillar of the legal system is the right to dispose of property freely. This may be infringed by government, unless its power is restricted, but also by lack of clarity in the case of disputes between private parties. Expropriation is sometimes necessary, but must be limited to cases that can be justified with reference to specific criteria, and must be fairly compensated.

#### *Scaling Guidelines*

- 4 – Property rights clear and fully enforced; expropriation is accountable and requires fair compensation.
- 3 – Property rights enforced in most situations; expropriation accountable and gives compensation based on a reasonable standard.
- 2 – Property rights generally enforced but not fully defined; expropriation requires due process of law but may be arbitrary in practice, and gives some compensation.
- 1 – Property rights have some basis in law but are limited in practice; expropriation may be arbitrary.
- 0 – Property rights have little basis in statute or legal practice; expropriation normally arbitrary and uncompensated.

### **30. Effective protection for intellectual property, including business models**

While intellectual property is not often a critical issue for PPP projects, businesses may be reluctant to bid, or to provide specifics when bidding, if their technical evaluations or proposals are not given the same intellectual property protection that would be available in the most advanced economies.

#### *Scaling Guidelines*

- 4 – Intellectual property protection is established and extends to business processes.
- 3 – Intellectual property protection defined but may not clearly cover relevant cases.
- 2 – Intellectual property protection exists, but is known to be limited for relevant cases.
- 1 – Intellectual property rights are not generally enforced.
- 0 – Intellectual property rights do not exist.

### **31. Judiciary demonstrates competence, independence and efficiency**

The professionalism, expertise and overall capacity in the judiciary will influence the smoothness with which policy can engage the advanced technology and complex management available in the private sector for PPP projects. Significant delays or uncertainty may result if judiciary capacity or performance is limited.

#### *Scaling Guidelines*

- 4 – Judiciary is fully competent, independent and efficient, causing few significant delays.
- 3 – Judiciary shows some limitations likely to create significant delays and other difficulties.
- 2 – Judiciary shows moderate limitations, creating frequent serious delays and other difficulties.
- 1 – Judiciary limitations likely to pose significant obstacles even when PPP is not complex.
- 0 – Judiciary limitations are severe.

**\*\*The following 4 indicators relate to government commitment to transparency \*\***

### **32. Government procurement is fair and transparent in practice**

Procurement procedures should encourage competition for large contracts and should ensure that goods and services are bought that are of good quality and fair price.

#### *Scaling Guidelines*

- 4 – Procedures for procurement contracts are effective and complied with, and large contracts are subject to fully transparent and competitive bidding process
- 3 – Procedures for procurement contracts are effective and complied with, and large contracts are subject to bidding process
- 2 – Rules for procurement exist and are complied with
- 1 – Guidelines for procurement exist but are not always complied with
- 0 – No rules or guidelines for procurement exist

### **33. Effective political commitment to eradicate public sector corruption**

If the reaction to corruption is resignation and acceptance, it will be very difficult to create any kind of watchdogs with teeth or interest in stopping corruption. It will be very difficult to find those who are willing to investigate corruption, and especially difficult to punish it when it is found. A strong commitment and lack of acceptance of corruption is necessary in order to fight it.

#### *Scaling Guidelines*

- 4 – Government, press and population strongly against public sector corruption and actively seeking it out and punishing it
- 3 – Government, press and population strongly against public sector corruption. Lack of tolerance of known corruption
- 2 – Press and population strongly against public sector corruption. Some efforts to address corruption

- 1 – Press and population somewhat against public sector corruption and make only ineffectual efforts to stop corruption
- 0 – Press and population resigned to public sector corruption

### **34. Political commitment to public and private financial transparency**

Financial transparency is important to public confidence in business. An adequate level of disclosure and of independent auditing will be part of good governance. This indicator measures the government's commitment to financial transparency in its own operations and those of the private sector.

#### *Scaling Guidelines*

- 4 – Government strongly committed and effective in ensuring financial transparency
- 3 – Government has created structures to improve financial transparency and is somewhat active in implementing them
- 2 – Government has legislated financial transparency, but in practice does little or nothing
- 1 – Government has taken few steps toward financial transparency
- 0 – Government actively tries to keep most financial information hidden

### **35. Government addressing problems of corrupt corporate practices**

The atmosphere in which business is normally conducted will spill over into transactions with the public sector. One element of good governance is an active policy to combat corruption in business, such as purchasing kickbacks.

#### *Scaling Guidelines*

- 4 – Government strongly enforcing laws against corrupt business practices
- 3 – Government addressing corrupt business practices, but as a low priority
- 2 – Laws and enforcement against corrupt business practices exist, but no effort is made to pursue cases
- 1 – Corrupt business practices are generally tolerated if they do not interfere with government priorities
- 0 – Corrupt business practices are integrated with public sector corruption and accepted

***\*\*The following 2 indicators relate to general government openness and transparency \*\****

### **36. Community and stakeholder participation in government policy making**

Government will be more effective at including many stakeholders if it is experienced in consulting with communities concerning a broad range of policies. The practice of integrating community input requires its own set of skills.

#### *Scaling Guidelines*

- 4 – Stakeholders and beneficiaries are regularly involved in detailed policy setting
- 3 – Stakeholders and beneficiaries are involved in many governmental decisions
- 2 – Stakeholders and beneficiaries are consulted by government
- 1 – Stakeholders and beneficiaries can make their voices heard without disruption
- 0 – Little or no participation by stakeholders and beneficiaries is allowed

### **37. Press is free, formally and in practice**

*A free press acts in the system of checks and balances to expose abuses of power by other groups, especially the government and the private sector. A free press limits corruption by making information available to the public and improves quality by drawing attention to project problems. Both result in better PPP projects.*

#### *Scaling Guidelines*

- 4 – Press is free, formally and in practice
- 3 – Press is free, but in practice there are some aspects of the government they cannot discuss
- 2 – Press is free, but in practice they are fairly constrained in what they can say
- 1 – Press is not free, but it exists
- 0 – Little or no press outside of government spokespersons

***\*\*The following 3 indicators refer to whether the country has capacity in labor and environmental law\*\****

### **38. Labor legislation effective in protecting workers' wages and safety**

If laws exist which protect the safety and wage rates of workers it fulfills one of the government's vital roles in the economy. Firms also potentially benefit from clear rules, more efficient workers, less work stoppages, and a better reputation.

#### *Scaling Guidelines*

- 4 – Laws are effectively implemented across the economy in all areas of labor protection, including safety, minimum wages, unemployment benefits, and working hours
- 3 – Laws exist covering most areas of labor law and are generally well enforced
- 2 – Worker protection adequate in the formal sector but much of the economy uncovered
- 1 – Labor laws exist but are generally ineffective, except perhaps in foreign companies
- 0 – Little formal labor protection exists

### **39. Environmental protection adequate**

PPP projects should be done with a minimum of environmental disruption to ensure the sustainability of the environment. Environmental legislation helps to protect the environment through specific regulations.

#### *Scaling Guidelines*

- 4 – Environmental laws adequately protect water, land, watershed, and forestry resources
- 3 – Environmental laws partially effective at protecting water, land, watershed, and forestry resources
- 2 – Some environmental laws exist and are effective at protecting some resources
- 1 – Some environmental laws exist but are mostly ineffective
- 0 – Environmental laws minimal or non-existent

**40. Environmental laws are clear and transparent and are all available from a single source**

Although generally PPP firms prefer to have environmental legislation as it spells out what needs to be done, environmental rules tend to be lodged in a variety of different ministries or branches of the government. If all the environmental regulations are clearly spelled out and are available from a single source - be it a book, or a government office - it greatly facilitates the firm's compliance with regulations, and helps the firm plan.

*Scaling Guidelines*

- 4 – A single source of information about environmental regulations exists and can provide complete guidance and information about environmental laws
- 3 – Environmental laws are all clear and straightforward but compliance requires visits to 2-3 agencies
- 2 – Environmental laws are mostly clear and transparent, but are enforced through many agencies
- 1 – Environmental laws are not easy to understand, or are not available in English or other international language, or are difficult to find out about.
- 0 – Environmental laws are arbitrary and unreasonable or don't exist

## **Part B: Indicators primarily focusing on PPP issues**

### **Legal and Regulatory Provision for PPP**

Indicators in this category measure whether the laws of the nation have provided for a PPP process, and the necessary legal structures are prepared to deal with legal issues arising in the process.

***\*\*The following 3 indicators refer to whether the legal basis for a PPP process is clearly established\*\****

#### **41. Legal basis for private sector participation in PPP is clearly defined**

If there is not a superseding PPP enabling law, then individual sector legislation may have to be modified. For example, some countries do not allow private provision of telecommunications, or of water, etc. The target sectors chosen for PPP need to have explicit legal provision enabling private participation.

##### *Scaling Guidelines*

- 4 – Private sector participation in PPP has legal basis explicitly setting aside any conflicts with prior law.
- 3 – Private sector participation in PPP has legal basis but may conflict with prior laws.
- 2 – Legality of private sector participation not clear.
- 1 – Private sector participation blocked by legal provisions in some target sectors.
- 0 – Private sector participation in some target sectors prohibited by law.

#### **42. Limited restriction on participation of foreign investors in PPP projects**

Even if private sector companies are enabled to provide basic services, many countries limit foreign participation in such efforts, or have serious limitations on the form in which foreign businesses may provide services. These may include limitations on land ownership or other natural resource use, greater restrictions on employment, or special requirements such as technology transfer. Openness to foreign participation usually accompanies a policy emphasis on effectiveness of private participation. Many countries have signed treaties concerning the treatment of foreign investors, providing a more predictable and secure environment for these investors.

##### *Scaling Guidelines*

- 4 – Foreign investors receive national treatment in ability in PPPs.
- 3 – Foreign investors have treaty protection for their ability to participate in PPPs.
- 2 – Foreign investors must use significant effort to work around restrictions on PPP participation.
- 1 – Foreign investors heavily discouraged from participation in PPPs.
- 0 – Foreign investors cannot participate in PPPs in most target sectors.



#### **43. Judiciary understands and accepts PPP policy framework**

The judiciary may not behave predictably toward PPP projects if the framework does not have clear legitimacy, accepted by the courts. Furthermore, practical understanding of the process and its rationale will improve the predictability and fairness of dispute resolution.

##### *Scaling Guidelines*

- 4 – Judiciary has demonstrated acceptance and understanding of PPP policy framework.
- 3 – Judiciary accepts PPP framework, but lack of experience or understanding may interfere with judicial implementation.
- 2 – Acceptance of PPP framework in the courts is expected, but only based on precedents in related law.
- 1 – The judiciary has undermined PPP policy, or is expected to be hostile based on precedent.
- 0 – The judiciary is hostile to PPP policy.

***\*\*The following indicator refers to legal provision for the orderly acquisition of needed property. \*\****

#### **44. Authority and procedures are clear for acquiring rights of way**

Rights of way are critical for infrastructure. Acquisition can be excessively costly and complex if government does not have clear authority and procedures for commanding the acquisition.

##### *Scaling Guidelines*

- 4 – Clearly defined authority and widely accepted practice for eminent domain allows predictable process of acquiring rights of way.
- 3 – Eminent domain process is defined but faces potential obstacles.
- 2 – Rights of way have little advantage over other property acquisition.
- 1 – Infrastructure rights of way are subject to arbitrary obstruction by property owners.
- 0 – Infrastructure rights of way are targets for extraction of payment due to popular resentment and lack of clear authority.

***\*\*The following 3 indicators refer to the adequacy of structures providing for economic regulation of PPP projects \*\****

#### **45. Regulatory authority is clear for all PPP types expected**

Whether economic regulation is done by line agencies specialized by type of project, or by authorities empowered for all PPP projects, the authority needs to be clearly specified and understood by all parties. Disputes between agencies can lead to serious delays and unpredictability for private parties. Clear authority for technical regulation may also be an issue at times.

### *Scaling Guidelines*

- 4 – Regulatory authority is clearly specified for all PPP types which are foreseen in the policy framework, including any necessary tests in court.
- 3 – Regulatory authority is clear except for minor issues or small possibilities of legal challenge.
- 2 – Regulatory authority is clear in principle but may face significant challenges in practice.
- 1 – Regulatory authority is unclear for significant parts of the possible spectrum of PPP projects.
- 0 – Regulatory authority for PPP projects is generally unclear.

## **46. Price and quality of PPP monopolies regulated to protect consumers and others**

Some monopoly power often goes with infrastructure provision, so that consumers need to be protected by quality requirements and price limits. Other regulation may be necessary as with any industry, to protect others affected by the business.

### *Scaling Guidelines*

- 4 – Price and quality regulations fully protect consumers and others affected, while permitting a fair return on investment.
- 3 – Price and quality regulations restrict abuses of monopoly power, but do not fully balance commercial interests with consumer interests.
- 2 – Regulation has the practical effect of restricting abuse, but is not based on understanding of economically appropriate decision rules.
- 1 – Regulation is limited to occasional interventions.
- 0 – PPP projects are not regulated economically.

## **47. Price regulation sufficiently flexible to adjust to major cost changes**

Regulation must base pricing on cost in a way that permits adjustment to large changes. The relation of price to cost should permit an adequate return on investment, and not be forced to reduce profits by the entire amount of any unforeseen costs if they are beyond the control of the company.

### *Scaling Guidelines*

- 4 – Price regulation recognizes the possibility of unforeseen changes in costs with fair division of costs or benefits between companies, government and consumers
- 3 – Price regulation essentially flexible, but may not be ready for the full range of contingencies
- 2 – Price regulation makes some provision for unexpected cost changes, but with serious limitations
- 1 – Price regulation makes only limited provision for cost increases
- 0 – Price regulation not capable of responding to higher costs.

***\*\*The following 3 indicators refer to implementation of economic regulation, considering factors in quality or fairness of regulation \*\****

#### **48. Powers and resources are adequate to regulate PPP**

Effectiveness of regulation may require specific powers to command and investigate relevant information, to inspect quality of service, and to enforce findings. Financial and other resources must be sufficient to make these powers effective.

##### *Scaling Guidelines*

- 4 – Regulation is equipped to be fully competent.
- 3 – Regulatory powers are significantly limited.
- 2 – Regulatory powers are seriously limited, resulting in impairment of regulation.
- 1 – Regulatory powers are so limited that regulation is a limitation on PPP performance.
- 0 – Regulation lacks the powers or resources to be effective.

#### **49. Accounts of PPP projects available to regulators and subject to effective query**

Regulators need access to the accounts of the PPP projects to determine appropriate user charges and to verify compliance. This should not, in general, include access to other accounts of private partners, outside the PPP project. Therefore special purpose PPP entities may need to be created, to shield the outside accounts from inappropriate disclosure. Accounts must be reliable and sufficiently detailed, and regulators empowered to query accounts on the basis of outside information which may call them into question.

##### *Scaling Guidelines*

- 4 – Regulators have complete access to PPP accounts, which are of sufficient quality.
- 3 – There are significant limitations on regulatory access to PPP accounts, or on quality.
- 2 – There are serious limitations on regulatory access to PPP accounts, or on quality.
- 1 – Regulatory access to PPP accounts is clearly inadequate.
- 0 – Regulators must rely on voluntary provision of information by PPP administrators.

#### **50. Regulators demonstrate competence, independence and efficiency**

The degree of professionalism and expertise by regulators will influence the predictability of the PPP investment, as well as enable effective quality for consumers without unnecessary cost.

##### *Scaling Guidelines*

- 4 – Regulators are fully competent, independent and efficient.
- 3 – Regulator behavior shows some limitations likely to create difficulties.
- 2 – Regulators show only moderate limitations.
- 1 – Regulatory limitations likely to pose significant obstacles to PPP effectiveness.
- 0 – Regulatory limitations are severe.

## PPP Policy Framework

Indicators in this category refer to the adequacy of the framework of policy understanding and structure that determines the purposes and priorities to be served by PPP projects.

***\*\*The following 2 indicators refer to the clarity of a policy framework and the accompanying division of responsibilities.\*\****

### **51. Private participation in PPP projects has clear basis in policy, with broad governmental support**

The rationale for PPP, and the supporting requirements, should be firmly understood and accepted by policymakers. In the course of PPP projects there will inevitably be surprises, and it is important that the PPP policy be clear, strong and flexible enough to survive these.

#### *Scaling Guidelines*

- 4 – PPP policy clear and accepted among policymakers and officials.
- 3 – PPP policy broadly understood and accepted, despite reservations.
- 2 – PPP policy understood and accepted by key decision makers, but faces some resistance in important parts of government.
- 1 – PPP policy inadequately understood or only tentatively supported by key officials.
- 0 – PPP policy tentative and only weakly supported.

### **52. PPP policy has clearly allocated authority and responsibility within the parts of government**

Confusion and tension between different parts of government, who naturally have very different perspectives, has been a major source of difficulties for PPP projects. It is important to clearly define the respective authority and responsibility between national and local government and between central and line agencies. Full consideration must be given to adequacy of the resources required.

#### *Scaling Guidelines*

- 4 – PPP policy has clearly and effectively allocated authority and responsibility.
- 3 – Allocation of authority and responsibility shows significant weaknesses.
- 2 – Allocation of authority and responsibility shows serious weaknesses.
- 1 – Unclear allocation of authority or responsibility regularly causes trouble.
- 0 – Unclear or inappropriate allocation of authority or responsibility seriously limits PPP program.

***\*\*The following 3 indicators refer to the ability of the policy framework to generate appropriate projects for PPP.\*\****

### **53. Effective process defined for proposing, identifying and structuring projects**

The process must be defined in advance, with anticipation of requirements for transparency and with criteria for appropriate projects well understood. Over time, the relevant agencies should develop formats and guidelines for proposal generation, to ensure careful consideration of issues likely to be raised by common project types. In general the projects will need to fit into overall policy frameworks for the sector involved, to be effective. Responsibilities for project proposal should be clearly defined.

#### *Scaling Guidelines*

- 4 – Project selection proven and thoroughly effective.
- 3 – Project selection process still dealing with significant weaknesses.
- 2 – Project selection process seriously limited in transparency or effectiveness.
- 1 – Project selection process limited enough to threaten PPP policy support.
- 0 – Project selection process mainly arbitrary or seriously misguided.

### **54. Distinct process for unsolicited PPP proposals in policy framework**

Unsolicited PPP proposals may be considered valuable, but they present different challenges for process transparency. Experience has shown that a separate process needs to be defined for approving and structuring these project proposals. Furthermore, many stages of the process, such as allocating funds if government support is called for, need to be addressed with additional care for transparency.

#### *Scaling Guidelines*

- 4 – Challenges of unsolicited PPP proposals understood and addressed by separate selection process.
- 3 – Unsolicited PPP proposals dealt with as distinct category, but not all transparency issues addressed.
- 2 – Unsolicited PPP proposals mainly dealt with as if no separate issues arise.
- 1 – Unsolicited PPP proposals have become a source of arbitrariness in selection.
- 0 – Unsolicited PPP proposals are known to offer opportunities for manipulation.

### **55. Policy framework generates commercially viable project proposals**

The perspective of the private sector needs to be fully recognized, and risks effectively managed, so that the PPP framework consistently generates proposals that pay for themselves (with governmental support if justified by social priorities).

#### *Scaling Guidelines*

- 4 – Policy has proven effective in generating commercially viable projects.
- 3 – Policy adequately generates commercially viable projects but with limitations.
- 2 – Serious limitations regularly require modification of proposals after initial tendering, in order to permit commercial viability.
- 1 – Limitations in project selection regularly result in rejection of projects by the private sector.

0 – Most proposals are not commercially viable, causing companies without close government contacts to be unwilling to bid.

## **56. Sectoral competition and regulatory regime chosen to limit market power**

PPP projects are established in the context of a regime to limit market power by providers in the industry. Some industries, such as electric power distribution or ports, are natural monopolies and require price regulation. Others, such as telecommunications, may be practical candidates for a competitive industry and require only enforcement against collusion. In general, the choice of regime should prefer a competitive approach when it is practical because of the inefficiency of price regulation.

### *Scaling Guidelines*

- 4 – PPP policy effective in using competition to limit market power when feasible.
- 3 – PPP policy prefers competitive regimes, but is limited by past practice.
- 2 – PPP policy considers competitive approaches, but tends to choose monopoly and regulation.
- 1 – PPP policy tends to maximize government revenue and neglect price limitation.
- 0 – No policy exists for limiting pricing in PPPs.

***\*\*The following 3 indicators refer to the ability of the PPP policy framework to work effectively with broader governmental requirements. \*\****

## **57. Projects are integrated with the national and local planning process**

Planning in the sector, and sometimes across sectors, must be sufficient to ensure that the role of the project will still be appropriate for many years to come, avoiding costly duplication or lack of effective demand. Proper planning will also see that supporting infrastructure will continue to be adequate.

### *Scaling Guidelines*

- 4 – Integration with planning process allows smooth treatment of long-term issues.
- 3 – Integration with planning process is adequate, though with unresolved tensions.
- 2 – Integration with planning process is seriously incomplete.
- 1 – PPP projects only slightly benefit from planning process.
- 0 – No integration with planning process exists.

## **58. Criteria for project support by government are clearly defined.**

Government financial support is often an invitation to abuse. There must be a solid basis in external (i.e. unpaid for) benefits of the project for surrounding areas, or in benefits to users with limited ability to pay. Careful estimates of these benefits need to be made before government support is committed, and the amount of benefit needs to be compared to alternative methods of achieving the goals.

### *Scaling Guidelines*

- 4 – Criteria for project support are clear and solidly based on economic rationale.
- 3 – Criteria for project support basically clear and generally used effectively.
- 2 – Project support only loosely based on objective criteria.
- 1 – Project support often politically motivated, with unclear criteria.
- 0 – Project support decisions arbitrary, and subject to serious abuse.

## **59. Project support requirements are integrated with government budget process**

Support requirements may extend into the future for many years. These need to be reflected in a realistic budget which has made provision for them and has considered contingencies.

### *Scaling Guidelines*

- 4 – Government budgeting has proven effective for project support requirements.
- 3 – Government budgeting generally effective for project support requirements.
- 2 – Serious limitations prevent government budgeting from properly addressing contingencies in PPP requirements.
- 1 – Government budgeting for project support requirements exists, but is clearly inadequate.
- 0 – No effective government budgeting for project support requirements.

***\*\*The following 2 indicators refer to the responsiveness of the PPP policy framework to broader input. \*\****

## **60. Stakeholders can participate in project planning and implementation**

It is important that those who will be affected by projects participate in their planning, to best take advantage of the project potential and to forestall as many difficulties as possible. A history of involving the community in the decision process is beneficial.

### *Scaling Guidelines*

- 4 – Stakeholders and beneficiaries are involved in planning every stage from the initial planning to the final implementation and evaluation
- 3 – Stakeholders and beneficiaries are involved throughout all planning stages of project
- 2 – Stakeholders and beneficiaries are consulted in early stages of planning project
- 1 – Stakeholders and beneficiaries are not involved in planning or implementation, but some mechanism exists for their complaints to be heard
- 0 – Little or no participation by stakeholders and beneficiaries

## **61. PPP policy undergoes evaluation and revision in response to experience**

At every stage of the PPP process, experience will show complications and difficulties that were not foreseen. A complete PPP policy needs a process for absorbing these lessons and assessing whether the policy needs to be changed to address possible future repetition.

### *Scaling Guidelines*

- 4 – Regular assessment and revision of PPP policy are familiar and effective
- 3 – Provision has been made for assessment and revision of PPP policy, but not yet proven
- 2 – Assessment and revision of PPP policy can occur on an ad hoc basis
- 1 – PPP policy experiences rigidity due to tensions between pressure groups and agencies
- 0 – PPP policy is unable to respond to experience

## PPP Capacity

Indicators in this section refer to aspects of the capacity of the public sector for undertaking PPP projects successfully.

***\*\*The following 2 indicators refer to underlying capacity, in the form of political support and institutional structure.\*\****

### **62. PPP process has sufficient political support, due to positive record or political “champion”**

Even if public opposition is limited, the difficulties that arise in the process of bringing PPP projects to completion can cause viable projects to fail. If a project has the necessary political backing, these difficulties are more easily resolved. Thus if there is a political “champion” or a broad base of support due to past successes, the chances of unnecessary project failure are significantly reduced. Lack of such support can often cause private firms to be reluctant to bid.

#### *Scaling Guidelines*

- 4 – Political support is strong, durable and widely known.
- 3 – Political support is significantly limited but sufficient for foreseeable situations.
- 2 – Political support is seriously limited by public or internal opposition, or by well-known failures.
- 1 – Political support is probably not sufficient to overcome significant trouble.
- 0 – PPP faces more opposition than support.

### **63. Defined government mechanisms in place to coordinate PPP needs**

PPP projects have special problems and issues. Experience suggests that the complexities of fitting PPP priorities into government structures requires specific mechanisms, including defined and formalized procedures, and, if the number of projects is large, dedicated staff who may be consolidated in a single governmental unit.

#### *Scaling Guidelines*

- 4 – Dedicated PPP unit or tested formal mechanisms effectively coordinate most PPP activity.
- 3 – Defined PPP mechanisms adequate for coordination of PPP activity.
- 2 – Specialized PPP staff can be identified, but coordination problems limit effectiveness.
- 1 – Some PPP expertise dedicated to PPP needs, but lack of defined mechanisms create serious problems.
- 0 – Lack of PPP mechanism means government treatment of PPP is haphazard or inappropriate.



***\*\*The following 5 indicators refer to the technical expertise and related resources available for the various aspects of PPP management.\*\****

**64. Staff of relevant government agencies have resources/information for managing PPP process**

Lack of resources, including extensive information and access to outside expertise, can make management of the PPP process difficult and invite problems. Information resources should include a wide library of legal, technical and financial knowledge accessible within the government.

*Scaling Guidelines*

- 4 – Financial and technical resources are more than adequate for effective management.
- 3 – Financial and technical resources are adequate.
- 2 – Serious limitations to financial or technical resources will limit management effectiveness.
- 1 – Financial and technical resources are barely sufficient to allow management to cope with the most important challenges.
- 0 – Financial or technical resources are so limited that serious management errors are predictable as a result.

**65. Staff aware of legal, financial and basic technical issues in PPP projects**

Well-trained and experienced staff will have a good idea where the difficult issues arise in the process of selecting projects and choosing private partners, as well as tools for addressing these. They will also be able to anticipate which of the major potential problems are most likely to come up in the course of a particular project. This will allow special attention to the challenges, and realistic planning for contingencies.

*Scaling Guidelines*

- 4 – Personnel have a thorough understanding of the legal, financial and technical issues that need to be addressed.
- 3 – Personnel understand legal, financial and technical issues at a level sufficient for effective planning and management.
- 2 – Personnel are aware of legal, financial and basic technical issues, and have some awareness of strategies for dealing with them.
- 1 – Staff awareness of legal, financial or basic technical issues is seriously limited, making unanticipated difficulties likely.
- 0 – Staff awareness of legal, financial and basic technical issues is clearly inadequate.

**66. Staff capable of routine operations in PPP project development**

Project development is often complex enough to make thorough expertise impractical on an in-house basis. However, there are routine aspects such as assessing the fit with sector plans, narrowing from many possible projects to a manageable number, budgeting at a general level for projects, and writing a basic contract “shell” appropriate to the type of project. These should be within the competence of the relevant staff, whether in line agencies or specialized PPP units. If not, unpredictability is multiplied and complexity may be impossible to manage effectively.

### *Scaling Guidelines*

- 4 – Staff skills are more than sufficient for routine PPP development tasks.
- 3 – Staff skills are sufficient for routine PPP development tasks.
- 2 – Significant routine PPP development tasks are beyond the skills of the staff.
- 1 – Serious limitations of staff skills will shift initiative in project development onto outsiders or the private sector.
- 0 – Limitations of staff skills are severe, endangering the viability of PPP development.

## **67. Technical capacity sufficient to ensure construction and service standards**

Government oversight of technical matters is important for maintaining standards of safety and quality, and has added benefit such as ability to assess the desirability of adopting new methods as techniques change. Therefore, even though complete technical mastery may be unaffordable for government PPP oversight, an intermediate level is necessary for government to fulfill its role as partner.

### *Scaling Guidelines*

- 4 – Technical capacity is comparable to specialists in the international private sector.
- 3 – Technical capacity is sufficient to ensure proper standards in construction and service.
- 2 – Technical capacity faces significant limitations.
- 1 – Limitations on technical capacity risk inadequate oversight of the private sector.
- 0 – Technical capacity is clearly too limited for adequate oversight of the private sector.

## **68. Staff can assess outside work, including feasibility studies and risk mitigation strategies**

Complex tasks delegated to outside contractors must still be supervised and evaluated. Staff should have the competence to determine whether additional work needs to be done and to evaluate work quality for purposes of determining future contracting. Ideally staff would have a high level of expertise in technical and financial matters, so that, for instance, risk/reward tradeoffs can be structured in the contract based on direct input from staff.

### *Scaling Guidelines*

- 4 – Staff have no trouble evaluating outside work at all levels of complexity.
- 3 – There are significant limitations on staff ability to assess outside work.
- 2 – Staff cannot adequately assess outside work in particular types of projects or for unusual complexity levels.
- 1 – Staff difficulties assessing outside work has caused numerous disputes or other interferences with PPP process.
- 0 – PPP projects are limited to routine types by staff difficulties assessing outside work.

**\*\*The following 3 indicators refer to the capacity for training and other capacity expansion, so that, for example, smaller and more routine projects can be considered for a PPP approach. \*\***

#### **69. PPP documentation/best practices available in the public domain**

A quality documentation base can save enormous amounts of time and effort by telling what problems occur and what solutions have been tried. Knowledge sharing and formal training will also benefit from thorough documentation. Ideally these are also available to the private sector.

##### *Scaling Guidelines*

- 4 – Documentation of best practices is open and thorough, including foreign experience.
- 3 – Documentation of best practices is extensive, open and responsive to client needs.
- 2 – Documentation of best practices is seriously limited, resulting in costs or limits on program.
- 1 – Documentation of best practices is clearly inadequate.
- 0 – There is no organized documentation of best PPP practices.

#### **70. Adequate resources/facilities and expertise to train in PPP**

Training can be most efficient with financial resources specified and appropriate facilities and worker time. A quality training program has been shown to be valuable for extending the PPP approach within government.

##### *Scaling Guidelines*

- 4 – Training resources and facilities are excellent.
- 3 – Training resources and facilities are adequate and up to date.
- 2 – Training resources and facilities have serious limitations, interfering with training.
- 1 – Training resources and facilities are inadequate to current needs.
- 0 – No training resources and facilities have been provided.

#### **71. Provision for assisting line agencies and local government in undertaking PPP projects**

Expertise in PPP projects has often been concentrated in specialized agencies or central agencies, but not extended to line agencies or to local governments. As a result, the PPP approach may not be available for projects that are the responsibility of these parts of government. Less specialized users of PPP will often require assistance to manage the complexity of PPP. Specific resources may need to be developed to package management skills for the less specialized users. For example, special guidelines for small-scale projects are often developed to make the process manageable with limited resources.

##### *Scaling Guidelines*

- 4 – Assistance to line agencies and local governments has been effective and responsive.
- 3 – Assistance to other government occurs, but with significant limitations.
- 2 – Provision for assistance to other government exists, but has not been implemented effectively.
- 1 – There has been little provision for assistance to other government.
- 0 – Central agencies are hostile to assisting line agencies or local government.

## **PPP Process: Project selection and contracting**

Indicators in this category reflect more detailed aspects of the management of a PPP project through the various stages from proposals to contract to monitoring.

***\*\*The following 2 indicators refer to predictability and transparency of the overall process\*\****

### **72. Predictable staging of project identification, selection and contracting**

The process of identifying projects and moving forward to contract should follow a predictable pattern. With experience should come a sense of how long it takes to process a proposal and approximately how long each further step is likely to take. Predictability is made easier if the stages have well defined procedures and the workload is managed by good planning and adequate resources. Some governments prefer to define “time bound” steps of the authorization process, so that officials must meet the schedule or show good reason not to.

#### *Scaling Guidelines*

- 4 – Project staging is well understood, including timing for each stage.
- 3 – Project staging is generally predictable, but with significant limitations.
- 2 – Project staging is subject to serious uncertainty, leading to significant reluctance on the part of private bidders.
- 1 – Project staging is still being defined, undergoes regular changes, and typically creates numerous significant delays.
- 0 – Project staging is almost completely unpredictable.

### **73. Transparent procedures specified for all stages of the PPP process**

Good governance in PPP requires clear and transparent procedures for each step of the PPP process to be defined. This indicator relates to the existence of such procedures, while later indicators refer to their implementation and effectiveness. At each stage, reference to objective criteria must guide all selection, and the procedures need to include a recorded explanation of decisions with careful and verifiable reference to these criteria. Other procedures are needed to prevent manipulation of the process using inside information. For example, bids should be submitted privately but opened in public. Finally, experience shows that behavior after the selection needs to be managed by careful procedures and objective criteria, to counter the temptation to bid low in order to win the award, with the intention of later renegotiation.

#### *Scaling Guidelines*

- 4 – Clear and transparent procedures exist for every stage of the PPP process.
- 3 – Clear procedures exist, with some limitations on transparency.
- 2 – Procedures are carefully designed, but lack of clarity and transparency creates noticeable problems.
- 1 – Procedures haphazard and lack transparency.
- 0 – Government shows little concern for transparency in the PPP process.

***\*\*The following 3 indicators refer to proper project assessment procedures before committing to a project \*\****

#### **74. Project feasibility studies undertaken for larger proposals**

Comparative assessment of project proposals and proper planning for detail requires feasibility studies which include technical, cost-benefit and broader impact assessment. Projects of more than about \$500,000 U.S. should have a feasibility study done before being defined in detail and opened for bidding.

##### *Scaling Guidelines*

- 4 – Technically thorough project feasibility studies are done for larger projects.
- 3 – Technically adequate project feasibility studies are done for very large projects.
- 2 – Technically adequate project feasibility studies are usually done for very large projects, with significant exceptions or limitations.
- 1 – Project feasibility studies are done for projects whose complexity and size are consistent with a high ratio of study benefit to cost.
- 0 – Project feasibility studies are rarely done unless non-government funds are available.

#### **75. Environmental and social impact assessment required**

Environmental and social impact assessment should be part of the bidding process or required before construction begins. Impact assessments should follow well-defined guidelines which take into account key variables such as population density, type of terrain and type of project. Exceptions may be made for small projects of a routine nature, in which case routine assessment can be applied cheaply.

##### *Scaling Guidelines*

- 4 – Thorough environmental and social impact assessments are done properly for all but small, routine projects.
- 3 – Impact assessment generally required, but significantly limited by inadequate or inappropriate requirements.
- 2 – Impact assessment generally required, but seriously limited by requirements, leading to significant environmental or social risks or to excessive cost.
- 1 – Assessment not required for significant categories of project, or of social or environmental risk; or not held to a proper standard of quality.
- 0 – Assessment not required, or not held to minimal standards.

#### **76. Customer safety assessment fully incorporated**

Careful assessment of operational safety, including maintenance requirements and fallback procedures for various possible system failures, needs to be part of project definition and detailed implementation. Both construction and operation need to have adequate planning for safety of customers.

##### *Scaling Guidelines*

- 4 – Thorough safety assessment and planning required and enforced.
- 3 – Safety assessment required, but lack of excellence in technical skills causes some weaknesses in practice.

- 2 – Safety assessment required, but implementation typically less than thorough.
- 1 – Assessment not required for significant categories of risk; or implementation seriously flawed.
- 0 – Assessment not required, or implementation not held to minimal standards.

***\*\*The following 3 indicators refer to management of the process of bidding by potential project sponsors \*\****

**77. Bidders given proper information, including requirements for submitting proposals**

Potential bidders should be able to easily obtain complete information on the requirements of the projects sponsor, including technical and performance requirements, revenue projections and their basis, procedural requirements, criteria for sponsor selection, expected arrangements for regulation and risk sharing. Further background information, such as relevant laws and regulations, past experience and best practices, should be available for those seeking it. A “one-stop shop” or other simplified arrangement will encourage firms without PPP experience to bid.

*Scaling Guidelines*

- 4 – Complete information available conveniently and well in advance of deadlines.
- 3 – Key information is available in a convenient and timely way.
- 2 – Bidders given key information, but serious inconvenience or gaps in information result in some limitations to bidding.
- 1 – Bidders can find key information with extensive effort, but carry the main burden of finding the appropriate source.
- 0 – Key information is often not available in a timely way.

**78. Verification of business information used in sponsor selection**

Sponsor selection needs to include a stage of information gathering on the relevant firms, often done in pre-bid screening. A minimum requirement is a due diligence process of verifying the financial soundness, manageable risk profile and prior experience of the firm. Some checks for conflict of interest should be made. Ideally, the government will also be able to check on the cost structure of firms to evaluate the realism of the bids. Even though bids will normally be considered commitments, the government may find itself with little recourse if firms seek to re-negotiate an unrealistic bid after project construction is well underway.

*Scaling Guidelines*

- 4 – Firms consistently investigated before selection, to evaluate prospects for actual performance.
- 3 – Due diligence review used consistently, but performance prospects only evaluated for very large projects.
- 2 – Due diligence review for large projects only; performance prospects evaluated occasionally.
- 1 – Realism of bids evaluated only using information provided by firms.
- 0 – Realism of bids evaluated only arbitrarily to favor particular firms.

## **79. Conflict of interest results in exclusion from contracting**

Conflict of interest leads parties to have the wrong incentives in a project, so that the project will not have intended beneficial effects, or may be constructed in expensive or illogical ways. Therefore those with a conflict of interest, such as family connections to government evaluators or business interests tending to encourage decisions that compromise performance, should be excluded from being part of PPP projects.

### *Scaling Guidelines*

- 4 – Conflict of interest is clearly defined and results in exclusion from, or blocking, contracts
- 3 – Definition of conflict of interest exists and is a factor in choosing participants and granting contracts
- 2 – Conflict of interest taken into account when choosing participants and granting contracts
- 1 – Conflict of interest not taken into account
- 0 – Government clearly awards contracts to those with strong conflicts of interest

## **80. Competitive tendering process is transparent in practice**

Lack of transparency in tendering is one of the greatest possible challenges to the PPP process. Less established firms will be reluctant to bid, non-competitive efforts to win bids will be encouraged, and quality standards will be more difficult to uphold. Firms need to be assured that their performance, and the financial attractiveness of their bid, will be the main factor determining whether they get the contract. In addition to monitoring the transparency of the selection process, government needs to vigilantly enforce rules for bidder behavior, to exclude any coordination or manipulation of the bidding process.

### *Scaling Guidelines*

- 4 – Tendering is known to be fully transparent and competitive.
- 3 – Tendering process needs greater attention to implementation to be fully transparent.
- 2 – Lack of effective implementation creates significant limitations to transparency.
- 1 – Serious failures to implement procedure create reluctance to bid by qualified companies.
- 0 – Tendering process is not competitive, or not perceived to be because of lack of transparency.

## **81. Objective criteria for project sponsor selection are known and applied.**

A key element of transparency in sponsor selection is the careful definition of criteria for sponsor selection. These must be defined with reference to project requirements, not irrelevant factors, and must be applied consistently. Opportunity to challenge selection criteria should be offered prior to bidding, with appeal to an independent tribunal available.

### *Scaling Guidelines*

- 4 – Selection criteria defined and applied objectively and appropriately, and publicized in advance.
- 3 – Selection criteria generally defined properly and available in advance.

- 2 – Selection criteria regularly defined or applied in ways that are not fully appropriate, leading to perception of possible bias.
- 1 – Selection criteria perceived to be regularly applied in a biased way.
- 0 – Definition or application of selection criteria perceived to be corrupt.

## **PPP Process – Post-Selection**

***\*\*The following 2 indicators refer to performance monitoring of on-going projects \*\****

### **82. Defined performance requirements available prior to bidding**

Sponsors need to know before bidding what standard of performance they will be held to. This allows them to budget realistically for costs when making bids. The basis for evaluation of the performance requirements should be spelled out and used in explaining the evaluations. Changes over the course of the contract should be limited to addressing unanticipated issues within the framework of the contract intent

#### *Scaling Guidelines*

- 4 – Performance requirements carefully defined and available well in advance of bidding.
- 3 – Performance requirements defined and available in advance of bidding.
- 2 – Definition or availability of performance requirements significantly limited.
- 1 – Definition or availability of performance requirements seriously flawed, such as by terms inappropriate to the project or by biased availability.
- 0 – Performance requirements not defined.

### **83. Performance monitoring effective and transparent**

Performance monitoring, after construction and during operation, must be conducted by trained personnel and follow criteria and scheduling defined appropriately to the project requirements. Transparent evaluation should include public availability of evaluation results, and part of the value of the contract should be tied to this evaluation. This will encourage firms to see their bids and performance as determining their success

#### *Scaling Guidelines*

- 4 – Project evaluations always occur after project completed, including regular data collection on performance. Payment influenced by results of evaluation.
- 3 – Project evaluations always occur after project completed. If faults are found, remedies are available.
- 2 – Project evaluations are usually carried out.
- 1 – Project evaluations are sometimes carried out. Firms generally not held responsible.
- 0 – Project evaluations usually not carried out.



***\*\*The following 5 indicators refer to management of contingencies which arise during the project implementation \*\****

#### **84. Arrangements for risk sharing are sensible and manageable**

Careful definition of likely uncertainty, and proper arrangements for managing it, are critical technical requirements for reconciling the inherent tension between public and private sector goals. Insurance firms should be involved in specifying measures for dealing with physical risks. Financial risks should generally be arranged to directly impact the parties capable of limiting them, but for factors that are difficult to control, potential costs should be shared in proportion to potential benefits, or priced fairly for shifting to other parties.

##### *Scaling Guidelines*

- 4 – Arrangements for risk sharing are equitable and avoid unnecessary costs from enforcement or from moral hazard.
- 3 – Arrangements for risk sharing have shown significant gaps, requiring improved procedures for negotiations.
- 2 – Arrangements for risk sharing have serious limitations, discouraging proper effort by sponsors or discouraging firms from bidding.
- 1 – Risk sharing is only minimally provided for.
- 0 – Risk sharing has not been addressed in contract provisions.

#### **85. Contracts for PPP are irrevocable except through due process**

Experience shows that PPP contracts may not be fully protected by the legal system in cases of controversy or political change. Private partners will participate more readily if contracts are protected. Likewise, however, private partners seeking renegotiation should be required to make reference to specific developments justifying departure from the original terms of the bid.

##### *Scaling Guidelines*

- 4 – Potential reasons for contract revocation are enumerated and, in practice, must be demonstrated through due process, subject to appeal to independent authorities.
- 3 – Contracts may not be revoked arbitrarily, and a form of due process is required.
- 2 – Contract revocation is subject to an accountable process but not properly limited.
- 1 – Contract revocation is not accountable but normally not arbitrary.
- 0 – Arbitrary contract revocation by government is common.

#### **86. Penalties enforced for failure to meet contractual obligations.**

In addition to tying payment under the contract to performance evaluation, the PPP contract should specify penalties for either partners or government failing to meet obligation. While there may be reasons for non-performance, the presence of penalties will give both sides an incentive to meet the contract if possible. Dispute resolution can be expected to deal fairly with the relatively rare case of major unforeseeable events.

##### *Scaling Guidelines*

- 4 – Penalties for non-performance are detailed, and are enforced unless a finding by due process determines that they do not apply.

- 3 – Penalties for non-performance are specified, with generally satisfactory enforcement.
- 2 – Non-performance penalties are incomplete or inconsistently enforced.
- 1 – Non-performance penalties only apply to firms without government contacts.
- 0 – Lack of non-performance penalties invites abuse.

**87. Conflict resolution process clear, including alternatives to judicial resolution**

Conflicts are likely to arise that have not been fully provided for in contracts. If resolution of such conflicts occurs in a predictable, timely and reasonably inexpensive way, PPP partners will participate more readily.

*Scaling Guidelines*

- 4 – Conflict resolution follows a well-defined and transparent process, including functional institutions of arbitration and mediation to avoid court.
- 3 – Conflict resolution institutions impose some unnecessary burden, possibly including limited alternatives to judicial resolution.
- 2 – Conflict resolution process expensive due to complexity, unpredictability, delay or likely bias against PPP operators.
- 1 – Conflict resolution process highly expensive and biased against PPP operators.
- 0 – Conflict resolution process not functional.

**88. International arbitration recognized and effective for dispute resolution**

When local provisions for arbitration are not considered completely reliable, foreign companies will be reassured by the option of specifying international arbitration. Not all countries accept, recognize and enforce international arbitration.

*Scaling Guidelines*

- 4 – International arbitration readily available and fully enforced.
- 3 – International arbitration available, but recognition or implementation in question.
- 2 – International arbitration available, but enforcement is doubtful.
- 1 – Availability of international arbitration is limited and not legally recognized.
- 0 – International arbitration is unavailable.

***\*\*The following 2 indicators refer to post-contract regulation as it is applied in practice \*\****

**89. Technical regulation is appropriate to project requirements.**

There is normally some measure of technical regulation required for safe and effective performance. For example, power providers may be required to adapt distribution networks as technological changes make possible safer or more effective connections. The degree of technical regulation should correspond to the technical complexity of the project and to the risk presented to users and others concerned.

*Scaling Guidelines*

- 4 – Technical regulation is fully competent and functions at an appropriate level.
- 3 – Technical regulation addresses the most important problems presented by the project.

- 2 – Technical regulation is seriously limited or imposes serious costs by overregulation.
- 1 – Technical regulation is obviously not appropriate to the project.
- 0 – There is essentially no technical regulation of major categories of PPP projects.

**90. Rulings by technical and economic regulators can be appealed**

The ability to appeal regulatory decisions creates a significant check on arbitrary behavior and other lack of transparency by regulators. There must be a competent and independent authority to decide these appeals.

*Scaling Guidelines*

- 4 – Appeal of regulatory decisions is reliable and enforceable.
- 3 – Appeal of regulatory decisions is possible but with significant limitations.
- 2 – Appeal of regulatory decisions is so limited as to provide inadequate checks on regulators.
- 1 – Appeal of regulatory decisions is ineffective except in the most egregious cases.
- 0 – There is no appeal process for regulatory decisions.

### **Social Dimension of PPP Policy**

Indicators in this category measure the ability to administer PPP projects in a fair and sustainable way that supports all groups in society. Also included are indicators that measure government success in promoting the PPP concept.

***\*\*The following 2 indicators relate to the government’s ability to promote the PPP concept\*\****

**91. Civil society views PPPs as viable means of providing infrastructure and basic services**

PPP projects face a lot of political opposition and misunderstanding. If PPP firms are already accepted as a possible way to achieving government aims in infrastructure and basic services, it will greatly simplify the adoption of new PPP projects.

*Scaling Guidelines*

- 4 – PPP widely adopted and accepted
- 3 – PPP projects widely adopted, moderately accepted
- 2 – PPP projects adopted in some areas, moderate acceptance
- 1 – At least one PPP project exists, and is reasonably successful
- 0 – No PPP projects or understanding of them

**92. Program to educate the public concerning the need for user-pays principle**

Many PPP projects rely on the user-pay principle, which says that additional services are provided, but for a price. Stakeholders are used to the government providing services without direct charges and may be resistant to user-pays programs. Education is required to explain to them that the services could not be provided unless a fee is charged, and that they

are better offer with the service and the fee than they would be without the service and the fee.

*Scaling Guidelines*

- 4 – Widespread acceptance of the user-pays principle for infrastructure and government services
- 3 – Government training designed to educate public about user-pays principles including training associated with any PPP project that uses user-pays
- 2 – Some government training in user-pays principles
- 1 – Minimal government training in user-pays principles
- 0 – No training or effort to explain user-pays to the public

***\*\*The following 2 indicators relate to whether PPP policies are pro-poor\*\****

**93. Planning system addresses the needs of the poor and marginalized**

Providing basic services to the marginalized/poor should be one of the central aims of the government, and should have an active role in the design of new projects and the choice of projects. If past projects have shown interest in marginalized groups, it will be easier to assemble systematic information about the possibilities for effective action.

*Scaling Guidelines*

- 4 – Government has a history of building and supporting projects that focus on the needs of the poor and which promote social welfare
- 3 – Government has a history of building and supporting projects that take into account the needs of the poor or social welfare
- 2 – Government consciously plans to address needs of the poor and marginalized
- 1 – Government pays little or no attention to the poor and marginalized
- 0 – Government regularly initiates projects which make life worse for the poor and marginalized

**94. Pricing policies reflect the needs of the poor in basic services**

Not only in design, but also in pricing, the needs of the poor need to be taken into account. Many PPP projects have high capital costs, but low marginal costs. As a result, providing for those with low incomes may be as simple as offering a lower price to disadvantaged groups. Alternatively, options with limited convenience or quality may be available at a very low cost to allow basic needs to be met. In other types of projects, there may be a need for long term subsidies by the government to support the poor.

*Scaling Guidelines*

- 4 – Basic service PPP projects often provide lower prices for the poor
- 3 – Pricing for basic service PPP projects is kept low to help all parties
- 2 – Pricing for basic service PPP projects is uniform, but in line with income in the country
- 1 – Pricing for PPP projects is expensive, and designed for a limited group of stakeholders
- 0 – Government allows PPP firms to set prices freely to maximize profits.

***\*\*The following 2 indicators relate to the availability of specialized finance for projects that target the poor, community participation, or other social welfare priorities\*\****

**95. Funds available for projects with added social welfare purpose**

In addition to projects which can be financed from customer revenue, some may need added funds to meet other, social welfare, priorities. For example, “basic service” projects provide services to poor or disadvantaged groups. Or projects may generate “external” benefits, such as relieving congestion on nearby roads. Revenue inadequate to social benefits may be handled in a number of ways: the government may subsidize the project on a long term basis, or may provide initial funds to cover expected revenue shortfall, or may have the firm build the project and turn it over immediately to the government to run.

*Scaling Guidelines*

- 4 – Government funds available for extensive basic services or external benefit projects.
- 3 – Government funds allow a regular stream of basic services or external benefits projects.
- 2 – Government funds allow only the most urgent social welfare projects, though guarantees may leverage additional projects.
- 1 – Government uses guarantees or other indirect methods to leverage private funds for some social welfare projects
- 0 – Government unwilling or unable to create funding for social welfare projects

**96. Community instruments (such as cooperatives) for equity participation in PPP available**

To enable community participation, it may be useful to raise funds by selling shares in the project through a local cooperative or other structure. If laws that support this type of financing exist it will facilitate smaller projects at the regional or community level. Alternatively, pro-poor projects may substitute other community participation through similar structures.

*Scaling Guidelines*

- 4 – Community equity financing (or pro-poor alternative) for PPP easy and familiar
- 3 – Community participation in PPP projects has been successful in some cases
- 2 – Community participation with potential for PPP is available and has been tried
- 1 – Community participation in PPP is possible in theory
- 0 – Community equity financing (or pro-poor alternative) for PPP not possible

***\*\*The following 2 indicators refer to whether the country takes the community into account in PPP\*\****

**97. Mechanism for undertaking community-based infrastructure projects using PPP**

Smaller PPP projects are often initiated at the community level but may make use of some government funds. If a mechanism exists which allows the community to initiate projects and coordinate with the government it will result in more and better PPP projects.

*Scaling Guidelines*

- 4 – A number of community-initiated PPP projects exist and have been successful
- 3 – A few community-initiated PPP projects exist and have been successful
- 2 – Community-initiated PPP projects are in the planning and processing stage, or exist and have not been effective
- 1 – Laws allow for community-initiated PPP projects
- 0 – No history or facilities for community-initiated PPP projects

**98. Resettlement and rehabilitation provided for communities disrupted by PPP projects.**

Infrastructure projects may disrupt regions and communities seriously. Failure to provide for resettlement or environmental and other rehabilitation will create popular resentment and will undermine the project and the overall PPP program.

*Scaling Guidelines*

- 4 – Rehabilitation fully compensates for loss of land and livelihood and addresses social disruption.
- 3 – Rehabilitation compensates for most money losses and is conducted helpfully.
- 2 – Rehabilitation seriously limited or conducted in an alienating manner.
- 1 – No assistance is provided except compensation for land.
- 0 – No compensation is provided.

## Index

The purpose of the index is to assist in the creation of addition categories. In the process of creating this self-assessment it was found that there were as many ways to divide the variables as there were participants. Nevertheless, most participants agreed generally on which variables needed to be included.

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