



Ministry of Communications
National Highway Authority

No. 2(17)-NHA/PPP/SOP/20-404

Islamabad, November 27, 2020

Subject: **Standard Operating Procedure (SOP) for Public Private Partnership (PPP) Projects**

The National Highway Authority (NHA)'s Executive Board, in its 343rd meeting held on September 17, 2020, has approved the Standard Operating Procedure (SOP) for undertaking Projects on Public Private Partnership (PPP) modality.

2. A copy of approved SOP is circulated herewith for information and compliance by all concerned, please.


27/11/2020
(ABDUL RAUF SHAIKH)
Member (PPP)

ALL MEMBERS, NHA

ALL GENERAL MANAGERS, NHA

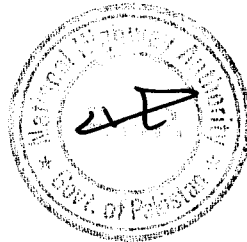
Copy to:

- Secretary, NHA Islamabad
- SPS to Chairman NHA

GOVERNMENT OF PAKISTAN

**STANDARD OPERATING PROCEDURE
FOR
PPP PROJECTS**

September 2020



**National Highway Authority
Islamabad**

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1. Introduction

- 1.1 The Government of Islamic Republic of Pakistan (GoP) through National Highway Authority (NHA) intends to accelerate the development of communication networks (national highways, motorways, strategic roads, tunnels, bridges etc) by attracting private sector participation, thereby, promoting economic growth and reducing poverty. The technical, managerial and financial resources of the private sector can make a useful contribution in this regard.
- 1.2 The concept of Public Private Partnership (PPP) covers a wide range of avenues and is subject to various interpretations. A well-known definition of PPP is: *“a risk-sharing relationship between the public and private sectors based upon a shared aspiration to bring about a desired public policy outcome,”* typically, the provision of new or improved infrastructure to provide a new public service. Under the PPP mechanism, the emphasis lies on output performance indicators rather than on input specifications.
- 1.3 In the context of national highways and motorways, PPP generally refer to concessions or Build-Operate-Transfer (BOT) contracts, or any variant of them, i.e. contracts where risks and responsibilities transferred to the private sector are much wider than in traditional public works or service contracts. They usually entail a mix of construction, operation, commercial and financial issues, with a variable degree of risk sharing between public and private partners.

2. Legal Framework

- 2.1 NHA Act 1991 as amended in 2001 under Section 10(2)(iii),(vi),(xi) empowers NHA to undertake PPP projects.
- 2.2 The Public Private Partnership Authority Act, 2017 (the, “PPPA Act”) published in the Gazette of Pakistan on 31st March 2017 read in conjunction with the Public Private Partnership Authority (Amendment) Ordinance 2020 (the, “PPPA Amendment Ordinance”) published in the Gazette of Pakistan on 7th July 2020, is applicable for Public Private Partnership (PPP) projects of National Highway Authority.



3. Identification of Projects

- 3.1 Projects to be undertaken on PPP basis can be identified either by the government, NHA or the private sector as unsolicited projects, in accordance with the procedure laid down by the Public Private Partnership Authority (the, "P3A") in accordance with the provisions of the PPPA Act, PPPA Amendment Ordinance or the rules framed thereunder. The PPP Cell shall cause to evaluate the project on preliminary basis and put up its recommendations establishing the necessity and prospects of the project to Chairman NHA for principal approval.
- 3.2 Once the project is approved in principle by Chairman NHA, it will be included in the list of PPP projects and shall be uploaded on NHA website.
- 3.3 Provided that if a project is included in the annual PSDP list of PPP projects falling under the statutory domain of NHA for implementation, it shall not be subject to in-principle approval of Chairman NHA and shall be deemed to have been included in the approved list of PPP Projects of NHA.
- 3.4 In case a non federalized highway is indicated by the government to be executed on PPP basis, the Planning section shall assess the project with respect to its potential as a national highway project and its financial liability issues and accordingly advise the federal government regarding its federalization or otherwise.

4. Design and Commercial feasibility

- 4.1 The PPP Cell shall prioritize the PPP Projects and shall prepare TOR for commercial feasibility of the identified project and forward to Planning section after obtaining approval from Member (PPP).
- 4.2 The Design Section of NHA shall prepare the TOR for the design portion of the study, which shall be forwarded to NHA Planning Section.
- 4.3 The PPP Cell shall explore avenues of financing the technical and commercial study of identified project. These avenues may



include PSDP, NHA own funds, project development facility of Public Private Partnership Authority or other sources. Decision in this regard shall be taken in consultation with Planning section and/ or RAMD.

- 4.4 PC-II of the PPP project shall be prepared by the Planning section and submitted for consideration of the TWP-II meeting. The concerned officers of the PPP Cell and the Design section shall be invited in the TWP-II meeting for presenting their respective portions of the TOR.
- 4.5 Planning section shall coordinate for approval of PC-II from the DDWP (Department Development Working Party). Once PC-II of the project is cleared, the approved minutes along with initialled copy of the TOR shall be forwarded by the Planning section to P&CA section for initiating procurement process.
- 4.6 The P&CA section shall procure the consultants in accordance with prevailing public procurement rules.
- 4.7 Once the consultants are procured and Contract Agreement is signed, the PPP Cell shall act as a focal point for coordinating timely submissions and review of commercial feasibility. The Design section shall review the design submissions and clear the invoices of consultants.

5. Processing of PC-1s

- 5.1 The design and commercial feasibility consultants shall prepare and submit two separate PC-1s; one for the land acquisition and relocation of utilities if so required for the PPP Project; and the other PC-1 for the main project called the project PC-1.
- 5.2 The project PC-1 shall among other things elaborate the main scope of work, the minimum features envisaged under the project and the funding mechanism/ structuring. At the same time, it would be highlighted that the exact features shall be dependent upon the concessionaire's design.
- 5.3 Costing for the project PC-1 shall be bifurcated into two heads; one is the Concessionaire's cost, which shall be borne by the potential Concessionaire through mix of equity and commercial debt, and the other head shall include the GOP cost. The GOP cost shall typically include, but not limited to, establishment charges, QAI (Quality Assurance Inspector)/ Independent



Engineer, Joint Auditor costs, security cost, NH&MP buildings/ equipment (if required) etc.

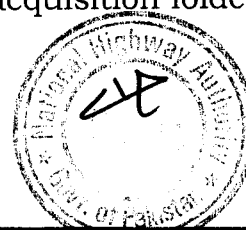
- 5.4 The requirement of VGF (Viability Gap Funding) if needed shall be clearly spelled out in the project PC-1. In case the VGF Fund is established and operational under the provisions PPPA Act or PPPA Amendment Ordinance, the funding options may also be explored from P3A by the PPP Cell.
- 5.5 In case the project is to be made viable by cross-subsidization of an existing road infrastructure, separate approval of NHA Executive Board shall be sought by PPP Cell. Such approval can be granted keeping in view the requirement/ necessity of the new project and the effect of such a decision on the sustainability i.e maintenance and rehabilitation of national highways and motorways network.
- 5.6 The PPP cell shall review the project PC-1 with the support of Design section. After review, it shall be submitted to Planning section for final review and initiating the approval process from NHA Executive Board, the CDWP and ECNEC as per the cost threshold.

6. Clearance from PPPA (P3A)

- 6.1 NHA PPP Cell shall be responsible to seek approvals from P3A in accordance with the PPPA Act, the PPPA Amendment Ordinance and the process flow for approvals, bidding and contract award as may be prescribed and communicated by P3A in line with the above laws.
- 6.2 The procedure of clearance from P3A shall be further elaborated in due course of time once the process flow for approvals is defined and communicated by P3A.

7. Establishment of PMU

- 7.1 A project management unit (PMU) shall preferably be established on site at an earlier stage to process for land acquisition and other project related activities. The PMU shall be adequately staffed.
- 7.2 The PMU will coordinate with Design, EALS, Finance and other concerned sections for obtaining land acquisition folders,



budgetary allocations and other information in order to install or cause to install ROW markers and to commence land acquisition.

8. Procurement of Concessionaire

- 8.1 NHA may engage in prequalification of potential PPP bidders where necessary. In such a case, the PPP Cell shall draft the Expression of Interest (EOI) Notice for prequalification. At the same time, the prequalification document shall also be drafted. This document would essentially include instructions for preparation and submission of prequalification applications, list of documentary evidence required and criteria for prequalification.
- 8.2 The EOI Notice for prequalification and prequalification document shall be approved by Member (PPP).
- 8.3 Subsequent to approval, these documents shall be forwarded to P&CA section. The P&CA section shall cause the publication of EOI Notice principally in at least two national dailies, one in English and the other in Urdu having wide circulation. At the same time, it shall be uploaded on NHA website. In case, international publication of EOI Notice is required, the PPP Cell shall obtain approval of Chairman NHA prior to forwarding to P&CA section. The P&CA section shall provide prequalification document to any company/ firm, on request and subject to payment of price, if any.
- 8.4 The prequalification applications received by P&CA section shall be evaluated by the following committee to determine the prequalified bidders:

Chairman	GM (P&CA)
Member I	GM (PPP)
Member II	GM (Planning)
Member III	GM (Design)
Member IV	GM (Finance)
Secretary	Director (P&CA)



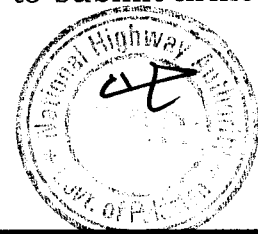
- 8.5 Approval of Chairman NHA shall be solicited for the prequalification report prepared by the committee through Member (Planning). NHA shall promptly notify each applicant whether or not it has been pre-qualified. Only companies/ firms who have been pre-qualified shall be entitled to participate further in the procurement proceedings.
- 8.6 Alternatively, if pre-qualification process is not adopted, NHA may directly solicit proposals by publication of RFP (Request for Proposals) Notice. The PPP Cell shall prepare the RFP Notice and forward to P&CA section after obtaining approval of Chairman NHA. The P&CA section shall cause the publication of RFP Notice principally in at least two national dailies, one in English and the other in Urdu having wide circulation. At the same time, it shall be uploaded on NHA website. In case, international publication of RFP Notice is required, the PPP Cell shall obtain approval of Chairman NHA to that effect prior to forwarding to P&CA section. The P&CA section shall provide RFP to any company/ firm, on request and subject to payment of price, if any.
- 8.7 The PPP Cell shall draft or cause to be drafted the Request for Proposals (RFP) including draft public private partnership Agreement. The Employer's Requirements forming part of the RFP shall be comprised of scope of work, design standards, construction performance standards and O&M standards. The first three parts of Employer's Requirements shall be provided by Design section after taking approval of Member (Planning). The last part shall be provided by RAMD after approval of Member (Engg-Coord). The complete RFP shall be approved by Member (PPP).
- 8.8 Subsequent to approval from Member (PPP), the RFP shall be forwarded by PPP Cell to P&CA section for issuance to prequalified firms/ consortia or provision to interested bidders in response to RFP Notice as the case may be.
- 8.9 P&CA section shall conduct a pre-proposal meeting. PPP Cell shall support in drafting the minutes of pre-proposal meeting and addendum (if any). P&CA section shall ensure that adequate time is available to potential bidders after issuance and uploading of pre-proposal minutes and addenda (if any) for preparing responsive bids.



8.10 The proposals opening and evaluation committee for PPP projects is given below:

Chairman	GM (P&CA)
Member I	GM (PPP)
Member II	Director (Planning)
Member III	Director (Finance)
Member IV	Director (PPP)
Member V	Director (Design)
Secretary	Director (P&CA)

- 8.11 The technical proposals shall first be evaluated by the evaluation committee in accordance with the criteria laid down in the RFP. The technical proposals evaluation report shall be prepared and submitted to Chairman NHA for approval.
- 8.12 Subsequent to the approval, the financial proposals of technically qualified bidders shall be opened by the committee. These will be evaluated and a financial/ combined evaluation report prepared by the committee. The report shall include the ranking of bidders and Letter of Intent (LOI) to be issued to highest ranked bidder. Approval of Chairman NHA shall be solicited for the same.
- 8.13 Subsequent to approval of financial/ combined evaluation report, the P&CA section shall announce the results in the form of a report to be uploaded on NHA website. The P&CA section shall forthwith provide copies of evaluation results to PPP Cell for further processing and retain the original record in safe custody.
- 8.14 The PPP Cell shall issue LOI to the highest ranked bidder.
- 8.15 The LOI shall inform the highest ranked bidder of the intention of NHA to further the dialogue process that may lead to issuance of Letter of Support (LOS) and signing of public private partnership Agreement. The LOI may also include observations of NHA regarding preliminary design proposal, financial parameters and arrangements and/ or any other aspect. NHA may also require the highest ranked bidder to submit firmed-up proposal in the light of LOI.



8.16 The highest ranked bidder shall submit its response to the LOI or firmed-up proposal as the case may be in accordance with the provisions of LOI.

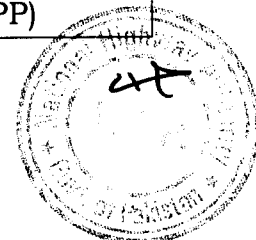
8.17 The PPP Cell shall submit the response/ firmed-up proposal to the proposal evaluation committee. The committee shall evaluate the response or the firmed-up proposal and determine the suitability of carrying the process forward. In case it is found to be suitable, a Letter of Support (LOS) outlining the firmed-up parameters of anticipated concession shall be drafted and submitted to following Bid Acceptance Committee:

Convenor	Chairman NHA
Member I	Member (Finance)
Member II	Member (Planning)
Member III	Member (Engg-Coord)
Secretary	Member (PPP)

8.18 Subsequent to clearance by the Bid Acceptance Committee, the LOS outlining the broad features of the Concession shall be issued to the highest ranked bidder. The LOS shall require the bidder to incorporate a company as special purpose vehicle (SPV) to undertake the project. It shall also invite the highest ranked bidder for negotiation of the public private partnership agreement.

8.19 The public private partnership agreement shall be negotiated with the private party by the following committee:

Chairman	Member (PPP)
Member I	GM (Planning)
Member II	GM (PPP)
Member III	GM (Finance)
Member IV	GM (RAMD)
Member V	GM (Design)
Member VI	Director (Legal)
Secretary	Director (PPP)



- 8.20 In case, the negotiations fail between both the parties, NHA may announce the next highest ranked bidder as successful, as per provisions of RFP, and process for issuance of LOI. Approval for the same shall be solicited by PPP Cell from Chairman NHA and concurrence from P3A. In such a case, the remaining steps shall be repeated including disclosure on NHA website. Alternatively, NHA shall have the right to annul the procurement process if it deems necessary in the given circumstances.
- 8.21 Subsequent to successful negotiations, the PPP Cell shall forward the finalized public private partnership agreement to NHA Executive Board for its clearance.
- 8.22 Pursuant to approval of NHA Executive Board, the public private partnership agreement shall be signed between NHA and the private party. Copies of the signed agreement shall be forwarded to P3A and concerned sections of NHA.

9. Appointment of Independent Engineer and Joint Auditor

- 9.1 The concessionaire shall forward to NHA a list of five firms each for Independent Engineer and the Joint Auditor in accordance with the provisions of public private partnership agreement. The PPP Cell shall submit the list along with profiles for consideration by the following committee:

Chairman	GM (Planning)
Member I	GM (PPP)
Member II	GM (Finance)
Member III	GM (P&CA)
Member IV	GM (Design)
Member V	GM/ PD (PMU)
Secretary	Director (PPP)

- 9.2 The committee shall evaluate the profiles, seek presentations from the firms included in the list if deemed appropriate and shortlist two firms each for the Independent Engineer and the Joint Auditor that are considered capable to implement their respective assignments in a professional manner. The committee report shall be submitted for approval of Member (PPP).



- 9.3 The PPP Cell shall forward the names of shortlisted firms to the Concessionaire in accordance with the provisions of public private partnership agreement.
- 9.4 The concessionaire shall finally select one firm each to be the Independent Engineer and the Joint Auditor.
- 9.5 The concessionaire in consultation with NHA finalize the fees and other terms of appointment for the Independent Engineer and the Joint Auditor. On behalf of NHA, the terms shall be finalized by the same committee that shortlisted the firms.
- 9.6 The powers for approval of appointing firms to be Independent Engineer and the Joint Auditor are given below:

Competent Authority	Maximum Limit (Rs. in Million)
NHA Executive Board	Full Powers
Chairman NHA	50
Member (PPP)	20

- 9.7 Subsequent to the respective approval, services agreement shall be signed with the Independent Engineer/ Joint Auditor firm jointly by NHA and the concessionaire.

10. Project Implementation

- 10.1 The PMU shall be responsible for monitoring and implementing the project in line with the provisions of public private partnership agreement.

