



GOVERNMENT OF NEPAL
INVESTMENT BOARD NEPAL

Procedure for

DEVELOPMENT OF PUBLIC-PRIVATE PARTNERSHIP PROJECT (UNSOLICITED)



ABBREVIATIONS AND DEFINITIONS

EOI:	Expression of Interest
GoN:	Government of Nepal
IBN:	Investment Board Nepal
OIBN:	Office of the Investment Board Nepal
PDA:	Project Development Agreement
PPP:	Public-Private Partnership
PPPIA:	Public-Private Partnership and Investment Act, 2075
PPPIR:	Public-Private Partnership and Investment Rules, 2077
RFP:	Request for Proposal
Rule:	Rule of the Public-Private Partnership and Investment Rules, 2077
Section:	Section of the Public-Private Partnership and Investment Act, 2075
SOP:	Standard Operating Procedure

1 INTRODUCTION

1.1 Background

The Investment Board Nepal (IBN) was established in 2011 under the chairmanship of the Rt. Hon. Prime Minister. It was established through the Act of Legislature Parliament in 2011 under the Investment Board Act 2011 with mandates revised later after the introduction of the Public Private Partnership and Investment Act (PPPIA) in 2019.

It was established with the task of attracting and facilitating private investors and managing public private partnership (PPP) in Nepal. As per the PPPIA 2019, IBN is mandated to approve projects with an estimated project cost of Rs. 6 billion or above. IBN is responsible for implementation of PPP projects with an estimated project cost of Rs. 6 billion or above and hydropower and energy projects above 200 MW.

According to the act, IBN can develop the projects through three different routes: solicited process, unsolicited process and direct negotiation. This Standard Operating Procedure (SOP) is developed to guide the project development process of unsolicited project. Unsolicited proposal means a proposal submitted by a proponent with an intention to develop a project in situation where concerned agency has not issued a public notice for inviting the proposal.

1.2 Conditions for Unsolicited Proposal

- Not identified or short-listed by IBN,
- Having novel concept, exploration, and technology,
- Mentioned in the GoN's policies and programs as a matter of public interest and national importance,
- Not received or could not be selected even after publishing a Request for Proposal (RFP),
- Developer agreeing to assume all responsibilities for the project feasibility study,
- Exclusive use of propriety equipment available only to private entities,
- Identified as a national strategic project by IBN or by the GON based on IBN's recommendation,
- Revoke of previously issued license



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PROJECT DEVELOPMENT PROCESS

2.1 Proposal phase

2.1.1 Proposal submission:

- a. Proponent submits a proposal along with the required fees (NPR 250,000/-), covering following details, to the OIBN to implement a project in PPP modality:
 - i. Project details (tentative issues to be covered)
 1. Project Name,
 2. Sector and industry,
 3. Current deficiencies and need for project,
 4. Market research and expected demand,
 5. Project location,
 6. Total area required,
 7. Project's expected output
 - Hydropower: MW
 - Solar energy: MW
 - Manufacturing: Tons per day
 - Service: Estimated number of users per year
 - ii. Proponent's profile, including technical and financial capacity (tentative issues to be covered)
 1. Developer's specialization and track record,
 2. Developer's national, regional, and international presence,
 3. Developer's experience in developing similar infrastructure projects,
 4. Developer's shareholding structure,
 5. Name and qualifications of shareholders (in case of a private company),
 6. Developer's organizational chart,
 7. Profile of company management/leadership,
 8. Developer's annual audited financial statements from the last three fiscal years,
 9. Developer's tax clearance certificate for the last three fiscal years (including notarized English translation),
 10. Developer's credit rating.
 - iii. If available, a preliminary feasibility study of the project,
 - iv. Proposed business plan (tentative issues to be covered)
 1. Estimated cost for project and internal rate of return,
 2. Sources of financing,
 3. Debt-to-equity ratio,
 4. Operational costs,
 5. Loan re-payment period,
 6. Capital structure,
 7. Source of revenue during project implementation (e.g., sale of electricity, goods, or services),
 8. Return on investment (ROI).
 9. Proposed shareholding structure of the Special Purpose Vehicle (SPV) to be established in Nepal,
 10. Letter of interest from financial institutions (if available),
 11. Estimated construction time,
 12. Potential partners for construction, engineering, operation, and maintenance.
 - v. Technology to be employed, and
 - vi. Potential benefits from the project (tentative issues to be covered)

1. Increase in national output (electricity, manufacturing, agriculture, etc.),
 2. Increase in use of renewable energy,
 3. Employment generation,
 4. CSR including local benefits sharing such shares and dividend,
 5. Knowledge sharing and technology transfer,
 6. Revenue generation,
 7. Increase in exports.
- vii. PPP Modality and its basis

2.1.2 Proposal evaluation:

- a. Initial Assessment: The evaluation committee formed for evaluating the submitted proposal shall carry out an initial review to ascertain the completeness of the proposal as indicated in 2.2.1.

If necessary, the evaluation committee may follow up with the proponent for additional information/evidence.

- b. Comprehensive Review: Based on all relevant information and documents, the duly submitted proposal is evaluated by the committee considering the economic, technical, financial aspects of the proposal.
- c. Acceptance of Proposal: The board may decide whether or not to issue a survey license to the proponent on the basis of the report submitted by the committee and the necessity and appropriateness of the project.

In case the proposal seems beneficial to carry out through competition, the board may opt Swiss Challenge to develop the project.

What is Swiss Challenge?

Swiss Challenge means the method of evaluation of any unsolicited proposal, in any manner or procedure, even by calling to third party received by any government agency for any project of service sector or of-road, railway, and so on, with the objective of receiving better quality of proposal than that unsolicited proposal (Section 28.4 Explanation).

In case the proposal of any proponent other than that of the first proposal is approved, the preliminary expenses incurred by the proponent in the course of development of the project may be reimbursed by the proponent whose proposal has been approved (Section 28.5).

2.2 Study Phase

2.2.1 MOU for Study

- a. OIBN and selected proponent shall sign a Memorandum of Understanding (“MoU”) for detail study of the project incorporating following details:
- b. Upon submission of Performance Security (0.5 percent of estimated project cost), OIBN shall issue survey license to grant the study right.

Details to be Disclosed in MoU

1. Technical and financial matter;
2. Initial feasibility study and detailed feasibility study;
3. Business plan;
4. Technology, equipment and human resource to be used in the project;
5. Expected profit from the project;
6. Environmental and social study;
7. Time for the completion of the study;
8. Registration of local company;
9. Investment approval to be obtained;
10. Schedule for the completion of the project;
11. Other required conditions.

Details to be Submitted for the Implementation of the Project

1. Feasibility study of the project;
2. Estimated cost of the project;
3. Proposed financial source of the project;
4. Business plan for the implementation of the project;
5. Environment study report of the project;
6. Details of the estimated fees to be collected from the consumers after the implementation of the project;
7. Details of the estimated royalty or fees to be paid to the GoN after the implementation of the project;
8. Technical design of the project and its sustainability;
9. Other matters as mentioned in the MoU.

2.2.2 Submission of the study report

The proponent shall submit the detailed study including the details as mentioned below for the implementation of the project to the OIBN within the time prescribed in the MoU:

2.2.3 Evaluation

The Evaluation Committee, formed for evaluating the study report, shall submit the evaluation report based on the terms of reference as indicated in MoU and the board may acknowledge the study report submitted by the proponent.

2.3 Investment Approval and PDA Phase

Details required during application for Investment Approval

1. Estimated cost for the project,
2. Details about proposed financial sources with estimated amount of domestic or foreign capital or foreign debt ,
3. Business plan for project implementation,
4. Work schedule for project implementation,
5. Applicant company's share records.

2.3.1 Investment Approval

- a. An applicant must submit an application to the OIBN for the approval of investment of the project in the format prescribed in the schedule-7 of the PPPIR, 2020 with the following details:
- b. The IBN shall study the proposal and the documents submitted with the application and grant the investment approval within 15 days of the receipt of the application and all the relevant documents.

2.3.2 Project Development Agreement (PDA)

- a. The OIBN shall form a negotiating committee to have negotiations regarding the terms and conditions of the PDA with the proponent. The negotiation committee after having negotiation with the proponent shall prepare the final draft of the PDA disclosing the matters mentioned below:
- b. After the completion of the negotiation and prior to the conclusion of PDA, the applicant shall deposit an amount equal to 0.2% of the total cost of the project as fee and a bank guarantee of an amount equal to 0.1% of the total estimated cost of the project.
- c. Upon approval by the respective authority of the parties, the Project Development Agreement is signed.

3. Project implementation

- a. For the execution of the PDA, the developer company shall

Details to be Disclosed in the PDA

1. Details of the project;
2. Dates of initiation and completion of the project;
3. Benefits and concessions to be received by the person obtaining the license while construction or operation of the project;
4. Duration of the license;
5. Phase-wise detail of the implementation of the project and implementation schedule;
6. Technical quality and standard of the project;
7. Details relating to the operation of the project;
8. Conditions for the operation or transfer of the project;
9. Provisions of fees that may be collected from the consumers while operating the project;
10. Provisions relating to insurance of the project;
11. Machines installed in the project and conditions and quality to be maintained at the time of handover of the project;
12. Fees and royalty to be paid to the OIBN and the method of payment;
13. Conditions for rescinding the agreement for non-fulfillment of obligations by either parties while implementing the project;
14. In case of any investment of the concerned authority, such amount and the return to be obtained by the concerned authority from such investment;
15. Provisions relating to the land acquisition;
16. Provision for studies and operation of additional project;
17. Conditions and other provisions of sub-lease, if any;
18. If the project is to be handed over, name of such agency;
19. Period of implementation of project and schedule of milestones and achievements of the project for the timely completion of the project;
20. Other required matters.

be responsible to fulfill the conditions of the PDA including obtaining of license, approval and all other obligations and OIBN shall coordinate and facilitate with the concerned authorities.

b. The developer shall develop an implementation action-plan within 3 months of signing of the PDA under the purview of the conditions of the P

NEGOTIATING COMMITTEE

- Negotiation on terms and conditions of PDA
- May obtain experts service

PREPARATION OF FINAL DRAFT

- Fee of 0.2%
- Bank guarantee of 0.1%

Approval of Final Draft and Conclusion of PDA



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