ADB

Technical Assistance Report

Project Number: 40243
November 2006

India: Mainstreaming Public-Private Partnerships at State Level

(Cofinanced by the Japan Special Fund)

Asian Development Bank

CURRENCY EQUIVALENTS
(as of 16 November 2006)

Currency Unit	–	Indian rupee (Re/Rs)
Re1.00	=	$0.0220
$1.00	=	Rs45.345

ABBREVIATIONS

ADB	–	Asian Development Bank
DEA	–	Department of Economic Affairs
GDP	–	gross domestic product
IIFCL	–	India Infrastructure Finance Company Limited
INRM	–	India Resident Mission
MIS	–	management information system
PPP	–	public-private partnership
TA	–	technical assistance
TASF	–	Technical Assistance Support Fund
VGF	–	Viability Gap Funding

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	General intervention
Sector	–	Law, economic management, and public policy
Subsector	–	Economic management
Themes	–	Sustainable economic growth, private sector development, capacity development
Subthemes	–	Public-private partnerships, institutional development

NOTE
In this report, "$" refers to US dollars.

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I. INTRODUCTION

1. The Government of India has requested the Asian Development Bank (ADB) for advisory technical assistance (TA) to mainstream public-private partnerships at the state level. The TA Fact-Finding Mission[1] visited India from 31 August to 3 September 2006 to ascertain the context, scope, and direction of the proposed TA and to consult on the specifications as well as TA measures and costs related to its components. The Government has concurred with the project impact, outcome, outputs, implementation arrangements, costs, financing arrangements, and terms of reference. The design and monitoring framework is in Appendix 1.[2]

II. ISSUES

2. **Background**. India has achieved impressive growth rates of 7%–8% in the last 3 years, but is now increasingly running into infrastructure constraints. Indeed, it has been said that "poor infrastructure is India's Achilles heel," and weak infrastructure is costing India about 3%–4% points of lost gross domestic product (GDP) a year. India's Planning Commission estimates that India needs to enhance its spending on infrastructure from 6% to 9% of GDP. ADB's country strategy for India shares this assessment and emphasis.

3. Infrastructure, as a public good, is an important determinant of productivity, development, and poverty reduction. Higher income levels and growth lead to further demands for transport, telecommunications, and energy services. In general, an incomplete infrastructure network limits the ability of some areas to participate in economic growth. Insufficient capacity across infrastructure sectors also leads to a widening infrastructure gap resulting in lower productivity, higher transport and logistics costs, reduced competitiveness, and slower growth. To improve infrastructure facilities, however, public financing alone—constrained as it is by the deficit reduction provisions of the Fiscal Responsibility and Budget Management Act 2004—will not be able to generate the needed levels of investments.[3] It has been reported that of the total investments of $425 billion needed in infrastructure until 2010–2011, there is a financing gap of $123 billion.[4] The private sector, thus, needs to be encouraged to participate in infrastructure improvements. As a matter of fact, the World Bank estimates that if private investments in infrastructure were to rise 3% of GDP (from an average of 1% in the past 10 years), India would get about $20 billion a year for investments.

4. However, while most infrastructure projects have high economic justification, they are not able to meet the financial return threshold that would readily attract private investment, particularly in the weaker states of India. Also, the hesitation of private investment flows to infrastructure in India, as in many developing countries, has to do with the absence of a sound legal and policy environment, and other prerequisites for private sector participation. As such, much as the private sector could be encouraged to try to meet the financing gap, only a closer partnership between the public and private sectors can support sustainable development, reduce poverty, promote equity, and ultimately achieve greater prosperity.

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[1] The Mission comprised Gambhir Bhatta, Senior Governance Specialist, SAGF/SARD, Mission Leader; Pratima Dayal, Senior Economist (Regional Cooperation), INRM; and Shunso Tsukada, Principal Transport Specialist, INRM. Mr. T. Kondo, Country Director, INRM, provided valuable advice to the Mission. This advisory technical assistance also benefits from the discussions at the recent series of regional workshops on public-private partnership (PPP) held in cities of India.

[2] The TA first appeared in *ADB Business Opportunities* on 6 September 2006.

[3] The Fiscal Responsibility and Budget Management Act requires the Government to reduce fiscal deficit by a minimum of 0.3% of gross domestic product (GDP) every year and revenue deficit by 0.5% each year, so that the fiscal deficit is not more than 3% of GDP by March-end 2009.

[4] World Bank. 2006. *India: Addressing Constraints to Infrastructure Financing*. Washington, DC.

5. **Government Strategy and Actions**. The Government is fully aware of the potential that a partnership with the private sector can bring to the infrastructure sector. While it has had policies in favor of attracting private participation in the infrastructure sector when economic reforms were introduced in 1991, it is only in the last decade that it has made known its preference for public–private partnerships (PPPs) to be the mode for financing infrastructure at central, state, and even substate levels. This has been done so as to use budgetary resources to maximize efficiency and leverage the large pool of private capital as well as introduce private sector-based efficiencies and management enhancement.

6. The Government's strategy and policies to attract private participation in the infrastructure sector have until recently focused largely on power and telecommunications. It is now increasingly expanding to other sectors and to instituting appropriate regulatory structures. A significant policy move now evident is related to the nature of competition and risk sharing. The initial efforts at this were weak in a competitive sense (e.g., contracts were awarded through memoranda of understanding rather than through competitive bidding, and telecommunication licenses were awarded through bidding but the number of players was restricted). However, starting with telecom, the Government changed the licensing regime, and also increased the level of competition by allowing free entry in wireline telephony. The Government has now expanded its engagement in PPPs and included areas such as roads, ports, airports, and urban infrastructure.

7. Some recent specific steps taken by the Government to encourage PPPs include (i) establishing a PPP cell in the Department of Economic Affairs (DEA) in the Ministry of Finance; the Government is also guiding state governments to establish PPP cells for mainstreaming PPPs; (ii) setting up the India Infrastructure Finance Company Limited (IIFCL) to facilitate access to long-term resources for infrastructure development;[5] (iii) creating a Viability Gap Fund with a current annual allocation of approximately $340 million to promote PPPs;[6] (iv) forming an inter-ministerial group to determine pre-qualification of bidders under PPP to avoid fly-by-night operators; and (v) preparing PPP tool kits and model concession agreements by DEA for use by various state governments.

8. **Continuing Constraints**. With respect to these recent measures, the Government itself concedes that even an optimistic assumption of a total of 500 PPP projects across India is "not very encouraging."[7] Despite a long experience with PPPs in infrastructure, the realization of the potential for infrastructure development through PPPs at the state level remains rather limited and few states have the capacity to establish a viable PPP framework and develop a pipeline of projects. While some PPPs have been in evidence and many different approaches have been followed,[8] it is clear that the enabling legal, policy, and regulatory frameworks remain either underdeveloped, or not conducive, or weakly applied. The fiscal position of most of the states is

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[5] India Infrastructure Finance Company Limited (IIFCL) has paid-up capital of approximately $2.27 million and authorized capital of about $227 million. Apart from its equity, IIFCL will be funded through long-term debt for which the Government may extend a guarantee for repayment of principal and interest. The extent of guarantee provided in the first year of operations is expected to be around $2.2 billion.

[6] The Fund can provide catalytic grant assistance of up to 20% of the capital costs, through which it expects several projects to become bankable, attract private capital, and mobilize private sector efficiencies. It is estimated that if the entire Viability Gap Fund were utilized, it would lead to investments of $1.6 billion annually at minimum leverage.

[7] *Report of the Regional Workshop of Chief Secretaries on PPP*, Bangalore, 12 June 2006. In the regional workshops of chief secretaries on PPP, this point was reformulated to the issue of "project pipeline creation" so that there are sustained opportunities for PPPs in the infrastructure sector.

[8] However, most of the state initiatives are restricted to road projects, real estate development, industrial parks, and relatively minor projects, such as bus terminals on a build-operate-transfer basis. There is also considerable variance among the states in India not only on the use of PPPs, but also its very meaning. Thus, there is a need to institute some discipline in the application of the PPP methodology across central and state-level entities.

also such that without private sector participation, the status of infrastructure would not change substantially even over the medium term.

9. Moreover, the low level of operational efficiency hampers the effectiveness of existing infrastructure facilities. Very little capacity at the state, district, and municipal levels to attract private sector interest in developing and financing infrastructure projects remains a binding constraint. Few governments have the fiscal strength to undertake PPP on a performance-payment basis, and except for the states with specific infrastructure project development companies (as in Karnataka, Rajasthan, and Punjab), there is little institutional capacity for professional project preparation. Also missing is a dynamic database at the center and states that allows rigorous monitoring of ongoing PPP projects.

10. A recent World Bank study on PPPs in India[9] concluded that to ensure successful PPPs, governments must develop and strengthen capacities to, *inter alia*, (i) appraise costs and risks being borne by government, (ii) bring to bear transactions skills to the market, and (iii) originate and financially close PPP deals. The report also stated that "strengthening capacities … to conceptualize, structure, and manage PPPs will lead to more and better PPPs." The Government accepts this conclusion, and in response to its request, this TA has been proposed. Prior assistance to Government in this area has been on supporting private sector participation in specific subsectors ADB's assistance through this TA is useful to directly contribute to tapping into financing opportunities that exist for infrastructure improvements. As such, this support is seen by Government as being highly catalytic.

III. THE PROPOSED TECHNICAL ASSISTANCE

A. Impact and Outcome

11. The proposed TA will support the Government in mainstreaming PPPs at the central and state levels through capacity enhancement/development as required. It will also support effective institutionalization of the PPP cells to deliver their mandate. The impact of the TA will be in evidence not only in improved access to basic infrastructure services, but also in increased efficiency in infrastructure service provision. The TA will leverage and mobilize the existing resource base in the Government for supporting PPPs in infrastructure, use public and potential private resources for infrastructure development and maintenance, and help ensure greater impact in infrastructure development at the state and national levels.

12. The outcomes of the TA will include (i) capacity development in the PPP cell within DEA to help implement PPP schemes effectively and efficiently; (ii) enhanced capacity of PPP cells in participating entities to prepare, evaluate, and appraise PPPs in infrastructure; (iii) significantly improved monitoring of overall progress in PPPs in infrastructure at both central and state levels through well-knit databases; (iv) increased awareness among potential private sector partners about the project cycle of PPP projects in infrastructure, and Government expectations with respect to value for money; and (v) over the long term, an increase in private sector participation in infrastructure development and management throughout India.

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[9] World Bank. 2005. *Building Capacities for Public-Private Partnerships*. Washington, DC (22 March 2005).

[10] ADB. 1998. *Technical Assistance to India for Western Transport Corridor-Facilitating Private Participation*. Manila (TA 2986, Japan Special Fund, $1 million, approved 9 February); ADB. 1999. *Technical Assistance to India for Private Sector Participation in Electricity Transmission*. Manila (TA 3380, TASF, $600,000, approved 28 December); ADB. 2001. *Technical Assistance to India for Preparing the National Highway Corridor Public-Private Partnership Project*. Manila (TA 3752, TASF, $700,000, approved 29 October); and ADB. 2003. *Technical Assistance to India for Development of High-Density Corridors Under the Public-Private Partnership*. Manila (TA 4271, Japan Special Fund, $700,000, approved 18 December).

B. Methodology and Key Activities

13. Support under this project will be (i) part of the larger Government agenda on economic reforms and institutional development by focusing on a key sector (i.e., infrastructure); (ii) needs driven (the TA has been formulated based on needs specified by the union and state governments); (iii) targeted and value added by focusing on relevant capacity development and creating an enabling framework for PPPs in DEA and other entities; and (iv) focused on selected states and entities (in a ramped up manner over 3 years) where the scope for using PPPs will have significant impact on the development of critical infrastructure.

14. The TA will have two components: (i) capacity development, and (ii) institutionalization of PPP skills. The first component, capacity development for the PPP cells, includes (i) determining training needs; (ii) developing relevant management information systems (MIS); (iii) developing guidelines and manuals; (iv) support for project preparation, appraisal, and evaluation; and (v) knowledge dissemination and awareness of international best practices.[11] This support will proceed in tandem with review of constraints of the existing frameworks for infrastructure development; review and finalization of eligibility criteria; and development of necessary policy, regulatory, and institutional reforms in the infrastructure sector.

15. As follow up to the capacity development support, the second component will assist PPP cells in selected entities to institutionalize their skills through practical application of the enabling framework. There will also be assistance to the PPP cell at DEA to coordinate the process and to do further needs assessments. This component includes (i) refining the PPP policy and regulatory framework,[12] (ii) meeting compliance/public safety norms, (iii) improving MIS, (iv) improving bidding documents and procedures, (v) determining risk sharing, (vi) conducting value-added research/analysis, and (vii) determining adequate monitoring arrangements.

16. Key activities will include (i) conducting a baseline survey of the regulatory environments for infrastructure; (ii) monitoring progress of PPP projects in infrastructure by creating a MIS to update project indicators and track performance; (iii) developing capacity within PPP cells at DEA and elsewhere;[13] (iv) assisting in promoting PPPs in infrastructure through appropriate outreach to potential private sector partners; and (v) increasing awareness among these partners about their role in PPP, increasing overall understanding of the PPP project cycle, etc.

C. Cost and Financing

17. The cost of the TA is estimated at $3.75 million equivalent, of which ADB will finance $3 million equivalent on a grant basis from the Japan Special Fund ($1.8 million) and ADB's technical assistance funding program ($1.2 million). The Government will provide $750,000 equivalent to finance the local currency cost to cover counterpart staff, office facilities,

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[11] Dissemination will also take the form of road shows that will help showcase the PPP experiences of the selected projects. Workshops/seminars will be conducted, and capacity development support will include undertaking partnership development missions to countries that have successfully practiced PPPs in the infrastructure sector. Cross learning among the states will also be encouraged.

[12] The legal and regulatory changes that are needed in order to promote PPPs are on: (a) concession contracts, (b) financing, such as through special purpose vehicles, (c) competition, and (d) regulatory risks that could prove to be disincentives to the private sector to participate in PPPs in the infrastructure sector.

[13] The training and capacity building activities here include (i) enhancing the understanding of the rationale for PPP projects; (ii) how to use risk assessment models and develop options for appropriate risk-sharing schemes; (iii) how to effectively use tools for assessing value for money like public sector comparator (i.e., what the government would have to pay if it undertook the project itself); (iv) understanding the structure and regulatory implications of concession contracts; (v) how to manage a bid process to maximize competition, and address issues relating to competition and regulation in infrastructure; (vi) how to appraise PPP projects; and (vii) how to evaluate contingent liabilities incurred as part of PPP projects.

administrative support, facilitation for meetings, and other expenses. The detailed cost estimates and financing plan are in Appendix 2.

D. Implementation Arrangements

18. DEA will be the executing agency for the TA, which will be implemented by the PPP cell of DEA and the participating entities. A steering committee for the Project, to be chaired by a joint secretary at DEA, will be established and will have representatives of the participating PPP cells as well as one person from the private sector to be selected by DEA. The steering committee will meet at least once every 6 months, and is mandated to provide policy oversight to—and monitor and guide the implementation of—the Project, and resolve issues that may arise in its implementation.

19. The entities selected for TA support are as follows: (i) DEA at the central level, and (ii) PPP cells in 14 states.[14] To achieve project outcomes, 1,230 person-months of national consulting services (Appendix 3) will be provided[15] to selected entities at the central and state levels by (i) one PPP expert (on an individual basis) focusing on project financial analysis and risk management, (ii) one MIS expert (on an individual basis) focusing on information management, and (iii) a panel of three legal firms on retainer basis (expected input: intermittent over the year but approximately 6–7 months throughout the year) to provide legal expertise on PPPs. There will also be two financial specialists (72 person-months) and one public finance expert (36 person-months) to be based at DEA. Selection of the individuals and the firms will be in accordance with ADB's *Guidelines on the Use of Consultants* (April 2006 as amended from time to time). Recruitment of consultants will be done by a committee of representatives from ADB, the Government, and the participating entity.

20. The Government and participating state governments will provide office space, furniture, logistical, and all administrative support necessary to implement the project. Office equipment and materials to be financed by the TA will be procured using the shopping method, and in accordance with ADB's *Procurement Guidelines* (April 2006 and as amended from time to time). At the end of the TA, the procured equipment will belong to the relevant government agency using it. TA implementation will last 36 months, from January 2007 to December 2009.

21. The steering committee will disseminate the results of the project, and project evaluation results will be made publicly available on the ADB website.

IV. THE PRESIDENT'S RECOMMENDATION

22. The President recommends that the Board approve the provision of technical assistance not exceeding the equivalent of $3,000,000 on a grant basis to the Government of India for Mainstreaming Public-Private Partnerships at State Level.

[14] The 14 states identified are Andhra Pradesh, Gujarat, Jharkand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttaranchal, Uttar Pradesh, and West Bengal.

[15] The selection method, terms of reference, and reporting/coordinating arrangements for the consultants are detailed in Appendix 3. The 2005 World Bank report on PPPs in India, in addressing the potential risk of bureaucratization of the work of PPP cells, maintained that an option to address the risk is to "rely on some long-term consulting skills" so that consultants can provide the necessary project-related and transactions skills.

DESIGN AND MONITORING FRAMEWORK

Design Summary	Performance Targets/Indicators	Data Sources/Reporting Mechanisms	Assumptions and Risks
Impact Improved access to basic infrastructure services Increased efficiency in infrastructure service provision	• Share of population with access to basic infrastructure increases by 5% points on a year-on-year basis • Real cost of infrastructure service provision is reduced by 5% points on a year-on-year basis • Business climate improves	• International and domestic surveys of business climate • Annual reports of state governments and union government • ADB evaluation missions • National sample surveys • Project MIS data	**Assumptions** • Strong commitment from union government and state governments to PPP methodology • Increased efficiency of infrastructure investment **Risk** • Private sector efficiency may not be higher
Outcomes (i) Capacity development in the PPP cell within DEA to help ramp up and implement PPP schemes effectively and efficiently; (ii) Enhanced capacity of PPP cells at participating entities to prepare, evaluate, and appraise PPPs in infrastructure; (iii) Significantly improved monitoring of overall progress in PPP in infrastructure at both central and state levels; (iv) Increased awareness among potential private sector partners about the project cycle of PPP projects in infrastructure, and the expectations of Government with respect to value for money; and (v) Over the long term, an increase in private sector participation in infrastructure development and management throughout India.	• There is a year-on-year increase in the number of PPP projects prepared by the entities • Share of PPP in infrastructure investment by states rises on a year-on-year basis • Total investment in infrastructure (as % of state gross domestic product) increases on a year-on-year basis in the selected entities • All staff members in PPP cells are able to (i) understand the rationale for PPP projects, (ii) use risk assessment models and develop options for appropriate risk -haring schemes, (iii) effectively use tools like public sector comparator, (iv) understand the structure and regulatory implications of concession contracts, (v) manage a bid process to maximize competition and appreciate competition issues, (vi) appraise PPP projects, and (vii) evaluate contingent liabilities • There is a year-on-year increase in private sector firms that are aware of PPP opportunities and that bid for potential projects	• Annual state government budget reports • Project MIS data • ADB review missions • Consultants' reports • Review of PPP projects prepared by the states • Review of reporting of contingent liabilities by the states	**Assumptions** • Fiscal space • Political will of union and state governments • Willingness and capacity of private sector (technical and financial) to participate • Consulting capacity for project preparation • Regular ADB and steering committee review • Trained staff will not leave government • Trained staff will be retained in the same department • Private sector is ready for PPPs **Risks** • Sixth Pay Commission may reduce fiscal space • Commitment may not be consistent across states • Private sector interest may be lower than assumed • Trained staff will leave government or not be retained in the same department • Capability may degrade over time without refresher training • Private sector interest in PPPs may take longer to mature
Outputs Tools, reports, marketing plans, support	• Needs assessment reports that accurately	• ADB and steering committee reviews	**Assumptions** • Support for consulting input from DEA and line

Design Summary	Performance Targets/Indicators	Data Sources/Reporting Mechanisms	Assumptions and Risks
mechanisms (such as databases), etc. to (i) strengthen PPP cells at DEA and selected entities at the state level, and (ii) institutionalize PPP skills in the various entities so that they can better catalyze and manage PPPs PPP appraisal guidelines, templates, model agreements	highlight skills gaps • Capacity development plans that are realistic and useful • Materials of high quality (in substance and presentation), and that also carry simple and easily understandable messages	• Consultants' reports • Regular monitoring reports from line departments	departments will be provided on time and to specifications • Assessments and reviews are rigorous and can be conducted on time **Risks** • Counterpart staff members from DEA and line departments not made available on time. • Inordinate delays in getting the project off the ground in states

Activities with Milestones	**Inputs**
1. Preparatory work (milestone: by QII 2007) 1.1 Review constraints of the existing frameworks for infrastructure development 1.2 Conduct baseline survey of the infrastructure and regulatory environments for infrastructure in participating entities 1.3 Develop risk assessment models for the selected entities 1.4 Collect necessary data and develop a public sector comparator model for the infrastructure sector in each participating entity 1.5 Determine adequate monitoring arrangements **2. Capacity development work (milestone: continues to QI 2009)** 2.1 Determine training needs assessment for the selected entities 2.2 Develop guidelines and manuals for PPP cells 2.3 Provide capacity development support and training to the selected entities to (i) enhance the understanding of the rationale for PPP projects, (ii) use risk assessment models and develop options for appropriate risk-sharing schemes, (iii) effectively use tools for assessing value for money, (iv) understand the structure and regulatory implications of concession contracts, (v) manage a bid process to maximize competition, (vi) appraise PPP projects, (vii) evaluate contingent liabilities incurred as part of PPP projects and otherwise, and (viii) address issues relating to competition and regulation in infrastructure 2.4 Conduct research on international best practices 2.5 Assess impact of training to feed into redesign, if necessary, of training programs **3. Institutionalizing PPP (milestone: continues to QIII 2009)** 3.1 Refine PPP policy and regulatory framework 3.2 Improve bidding documents and procedures 3.3 Conduct value-added research/analysis 3.4 Engage in knowledge dissemination and enhancing awareness of international best practices in the PPP approach and practice 3.5 Conduct appropriate outreach to potential private sector partners to increase their awareness about the private sector's role in PPP, in particular relating to the concept of value for money, and increasing overall understanding of the PPP project cycle 3.6 Create a MIS to allow the selected entities to update project indicators and allow tracking of performance **4. Project supervision and administration** 4.1 Set up consulting recruitment committee, with provisions to co-opt members at a later date (October 2006)	**ADB** • $3 million • National consultants (1,230 person-months) • Equipment ($120,000; TA funds) • Workshops, training seminars, and conferences ($123,000) • Review missions • Participation in tripartite meetings **Union/state governments** • Counterpart staff • Office accommodation and transport • Administrative services • Facilitation for meetings • Participation in tripartite meetings

Activities with Milestones	Inputs
4.2 Establish project steering committee, with provisions to co-opt members at a later date (October 2006) 4.3 Engage consultants for project activities (commencing November 2006) 4.4 Conduct reviews • TA monitoring review (once in 3 months) • Steering committee review (once in 6 months) • ADB review missions (once in 6 months) 4.5 Prepare and submit: • TA inception report (QI 2007) • TA first interim report (QIV 2007) • TA second interim report (QIV 2008) • TA draft final report (QIII 2009) • TA tripartite and final report (QIV 2009)	

ADB=Asian Development Bank, DEA=Department of Economic Affairs, MIS=management information system, PPP=public-private partnership, Q=quarter, TA=technical assistance.

COST ESTIMATES AND FINANCING PLAN
($'000)

Item	JSF Funding	TASF Funding	Total Cost
A. Asian Development Bank (ADB) Financing[a]			
1. Consultants			
a. Remuneration and Per Diem			
i. National Consultants (1,020 person-months)	1,479.0	420.0	1,899.0
ii. Legal Firm on Retainer Basis (210 person-months)	0.0	525.0	525.0
b. Local Travel	76.0	0.0	76.0
c. Reports and Communications	9.0	10.0	19.0
2. Equipment (including data systems)	0.0	120.0	120.0
3. Workshops, Training/Seminars and Conferences			
a. Workshops	15.0	0.0	15.0
b. Capability Development for Staff in PPP Cells	57.0	0.0	57.0
c. Partnership Development	0.0	51.0	51.0
4. Representative for Contract Negotiations	0.0	9.0	9.0
5. Miscellaneous Administrative and Support Costs	10.0	9.0	19.0
6. Contingencies	154.0	56.0	210.0
Subtotal (A)	**1,800.0**	**1,200.0**	**3,000.0**
B. Government Financing			
1. Office Accommodation and Transport			360.0
2. Remuneration of Counterpart Staff			135.0
3. Administrative Support			180.0
4. Facilitation for meetings			45.0
5. Others			30.0
Subtotal (B)			**750.0**
Total	**1,800.0**	**1,200.0**	**3,750.0**

JSF=Japan Special Fund, PPP=Public-Private Partnership, TASF=Technical Assistance Special Fund.

[a] Cofinanced by the Japan Special Fund ($1.8 million), funded by the Government of Japan; and ADB's technical assistance funding program ($1.2 million).

Source: ADB estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. To deliver the technical assistance (TA) outcomes, specific public-private partnership (PPP) cells at the state level and the Department of Economic Affairs (DEA) at the central level will be selected for support. For purposes of planning this TA, based on the Government of India's own calculations, and drawing from the presentations made by the various states in the four PPP workshops in mid-2006, it is felt that support for 15 PPP cells provides the critical mass necessary to embed and ground PPP usage and development across India. The TA also assumes that ramped up selection of entities may be necessary depending on how many entities meet the eligibility criteria. For each entity at both central and state levels, the following consultancy skills will be provided as assistance: (i) PPP expertise (full-time), (ii) management information system (MIS) expertise (full-time), and (iii) legal expertise (intermittent basis). At the central level in DEA there will, in addition, be two financial specialists (full-time) and one public finance expert (full-time).

2. All consulting inputs for the TA will be from national consultants. The consultants will be recruited in the following manner: (i) PPP and MIS experts for all entities, as well the financial specialists and public finance expert for the DEA, will be individual consultants; (ii) legal and regulatory expertise at both DEA and elsewhere will be provided by one among a panel of three firms on an intermittent basis (this is designed to ensure that provider capture and potential conflict of interest are avoided); (iii) for the DEA-based consultants, the Asian Development Bank (ADB) will recruit—with the concurrence of the Government of India—the expertise to be used; and (iv) for the expertise to be based in other entities, recruitment of the individuals and the panel of three firms will be done by a committee of representatives from ADB, the Government and the recruiting entity. In this process, the recruiting entity and the committee will employ all requirements and guidelines to be issued by ADB.

3. The reporting and coordinating arrangements among the team of consultants will be as follows: (i) the project manager for the TA will be the officer (not the consultant) from the DEA PPP cell (at the state level, the officer from the entity-based PPP cell will manage TA activities); (ii) the PPP expert at DEA will take the lead role in TA activities and be responsible for assisting the project manager to prepare the necessary reports to ADB, and for ensuring that entity-based consultants provide needed information on time; and (iii) ADB, through the India Resident Mission, will ensure that proper coordination across the various entities takes place in the course of the TA.

4. The outline terms of reference for each consultant in this document are not exhaustive, and may be supplemented and expanded as required to meet Government and ADB requirements.

A. At DEA

1. PPP Expert (36 person-months)

5. The expert will be responsible for the following tasks:

(i) Assist the project manager in the participating cell to ensure timely delivery of high quality outputs and implementation of activities.

(ii) Take the lead role in ensuring that TA activities are properly carried out, and to report this, through the project manager, to ADB, steering committee, and the Government.

(iii) In consultation with relevant institutions, review, contribute to, and ensure quality (in terms of rigor, completeness, and accuracy) of (a) financial analysis, (b) risk management analysis and protocols, and (c) demand projections of all project providers for PPP funding.

(iv) Review, contribute to, and ensure the quality of (a) project development reports, (b) any needs assessment reports, (c) subsequent capacity development plans, and (d) any training, workshops, etc.

(v) Develop, maintain, and continuously update all financial projections for relevant PPP projects/programs.

(vi) Provide on-the-job training to staff members, and develop the capacity to understand and appraise financial implications and risk modeling in PPP project proposals.

(vii) Support DEA in refining guidelines for bridge financing mechanisms (such as the Viability Gap Fund scheme) as required.

(viii) Assist in sensitizing relevant auditing and accounting entities in the jurisdiction/sector since these two sets of functions are critical to the success of PPPs.

(ix) Ascertain where partnership development missions for PPP projects could be most effective to raise the investment profile, and in managing the missions.

(x) Visit entities to sensitize them to appropriate bridge financing mechanisms (such as the Viability Gap Fund scheme) and assess their intentions, ability, and capacity to prepare PPP projects in infrastructure to access the scheme.

(xi) Coordinate the review and incorporation of any monitoring information into the mainstreaming work of PPP cells.

(xii) Coordinate with development partners to ensure that work on mainstreaming PPP across the states is harmonized.

(xiii) Coordinate the submission of the following reports: (a) an inception report within 1 month of the start of consulting services; (b) the first interim report in quarter (Q) IV 2007, and the second one in QIV 2008; (c) a draft final report in QIII 2009; and (d) a final report incorporating all the TA findings pursuant to a tripartite review with the central Government, state governments, and ADB by the end of the consulting services period.

6. The consultant should have 15 years or more of national and international professional experience in developing and managing PPPs, and should have the following qualifications and expertise: (i) be intimately familiar with the PPP methodology and framework for resource generation; (ii) demonstrate familiarity with the formulation, appraisal, and approval procedures for PPP projects (including relevant concession agreements, due diligence processes, value for money audits, public sector comparator, etc.); (iii) demonstrate familiarity with the following with respect to PPP projects: (a) complex project agreements; (b) tendering arrangements, (c) detailed legal and contractual agreements, (d) risk management and contingent liability issues, and (e) financial analysis of complex project proposals, etc.; (iv) demonstrate expertise in infrastructure development financing, in particular, being able to locate private capital for commercially viable infrastructure projects; (v) familiarity with relevant policy and regulatory frameworks so as to enable the delivery of efficient infrastructure services; (vi) experience in working with policymakers at all levels of government, with particular reference to determining appropriate methods of structuring PPPs; and (vii) team leadership skills. Familiarity with public sector processes and rules and regulations on Government involvement in PPP is also relevant. Deep familiarity with capital markets in India will be an advantage; and an advanced academic background in economics, finance, business management, and similar areas is essential.

2. Management Information System (MIS) Expert (36 person-months)

7. The MIS expert should have 10 years or more of professional experience in developing and managing MIS for organizations with complex mandates and national coverage or scope. The expert will be responsible for (i) developing a methodology and format for collecting and tracking data and information on a project basis; (ii) developing/collating benchmarking standards and helping apply them to particular PPP projects; (iii) analyzing data for decision support systems at DEA; (iv) assisting in conducting baseline surveys relevant to particular PPP projects so as to best capture relevant information; (v) developing and maintaining an information system that can be used to track project management; (vi) identifying and documenting best practices in India and elsewhere so that they are accessible to other line departments; (vii) working with other vendors that DEA may engage to ensure that information on all PPP projects are available in a public access database, as part of a best-practice website on PPPs in infrastructure; (viii) ensuring on-line data connectivity to databases in other entities both at the center and across the states; and (ix) training other staff members on use of the information system and on database search to aid in their work.

8. The consultant should have an information systems management and information technology background, and experience in large and complex organizations and projects, preferably those involving PPPs. The consultant should ideally be intimately familiar with the PPP methodology, particularly as it applies to implementation of relevant projects. Other requirements include (i) demonstrated experience in database development, (ii) use of MIS as input to a decision support system, and (iii) ability to impart training. Familiarity with incorporating benchmarking information in monitoring protocols is also a plus, as is experience in using information systems in project management.

3. Financial Expert (72 person-months)

9. The financial expert will be responsible for the following:

(i) Build capacity within central and state government administrative departments to understand financial modeling of PPP infrastructure projects and in particular the development of public sector comparators.
(ii) Develop and build capacity to develop the public sector comparator to determine comparable risk-adjusted cost indicators for public project delivery in the infrastructure sector, with a view to enabling its application to possible projects to be proposed for Viability Gap Funding (VGF).
(iii) Develop and build the capacity to develop financial models (including sensitivity analysis) to determine the likely value of private sector bids by applying both project finance principles to estimate the need for and extent of PPP viability enhancement mechanisms for selected projects in the infrastructure sector.
(iv) Advise union and state governments on innovative ways to structure financing and reforms related to infrastructure investments in PPP mode so as to minimize costs, maximize efficiency of implementation, and ensure financial sustainability.
(v) Develop an inventory of all sources of finance for infrastructure investments and assist in exploring alternate long-term options available for financing infrastructure in the states, focusing on options appropriate for PPP projects.
(vi) Build capacity on appropriate viability enhancement mechanisms (in particular, output-based aid) for creating sustainable PPPs in infrastructure.
(vii) Build capacity to assess financial risks relating to PPPs in infrastructure.

(viii) Maintain active dialogue with potential sources of financing and encourage broad-based support for PPP schemes, in particular the viability gap financing arrangement.
(ix) Conduct workshops with stakeholders from both the public and the private sector to ensure widespread understanding of the public sector comparator concepts.
(x) Help assess the intention, ability, and capacity of proponents to access the VGF, as well as initial sensitization to the VGF.
(xi) On request from the state government or administrative ministry at the center, provide financial guidance and assistance in managing the PPP project development process by interfacing with the financial consultants for the project in the preparation of financial documents for projects that could potentially be posed for VGF.
(xii) Provide other necessary support as required in the Project.

10. The financial expert will have a graduate degree in management/finance/accounting, and extensive experience and training in infrastructure finance. Prior experience with use and/or capacity building with public sector comparators will be required. Experience in evaluating and financing infrastructure investments from a private sector view, project finance, PPPs and resource mobilization, will be an advantage.

4. Public Finance Expert (36 person-months)

11. The public finance expert will be responsible for the following:

(i) Build capacity in departments to understand and evaluate evident and embedded contingent liabilities undertaken as part of PPP projects in infrastructure.
(ii) Assist state governments in developing road maps for implementing financial reforms necessary for PPP, viz., increased transparency of fund flows (including central funds and market-based funds) and improved revenue mobilization, with focus on user charges cess, etc.
(iii) Assist in the quick review of the existing policy and institutional frameworks, particularly the current financial status of states and suggest measures for making them more creditworthy.
(iv) Build the capacity to assess government fiscal risks relating to PPPs in infrastructure.
(v) Assist the financial expert in providing the state government or administrative ministry at the center with financial guidance on government fiscal risks in the preparation of financial documents for projects that could potentially be posed for VGF.
(vi) Provide other necessary support as required in the Project.

12. The expert will have an advanced degree in economics/accounting or public policy with at least 10 years experience and demonstrated experience in (i) valuation of contingent liabilities, and (ii) government accounting practices in India.

5. Legal and Regulatory Expert (national consultant firm; intermittent over 36 months)

13. The firm will (i) assess all PPP proposals and possible projects from a legal perspective, including giving recommendations on how to resolve any issues; (ii) provide expert opinion on the prevailing legal and regulatory environment, including identifying key bottlenecks in the regulatory environment related to PPP interventions in infrastructure; (iii) provide legal

opinions on all matters that have to do with legal aspects of the PPP projects; (iv) provide necessary support in facilitating and simplifying legal and procedural frameworks in the work of the PPP cell; (v) build the capacity of the entity to better understand the legal ramifications in, for example, model concession templates, special purpose vehicles, competition and regulation mechanisms, etc.; (vi) advise on legal issues related to competitive bidding and transparency in PPP processes; and (vii) review guidelines and documents on procurement, contracting, safeguards, compliance, etc. that have to do with PPP projects.

14. The firm should have in-house expertise in law and regulatory frameworks, including application, for at least 15 years, preferably in a PPP context. It should also have in-house individuals with demonstrated familiarity with the legal issues surrounding PPPs and how to avoid possible pitfalls. Legal drafting skills are a plus. Familiarity with prior cases involving any failures in PPPs in any jurisdiction is helpful, and experience in both public and private sectors is an advantage.

B. At the State Level

15. At the state level, consulting services required are for PPP experts, MIS experts, and legal firms. However, differences will arise in the orientation of the experts to the needs of the individual states, and a reduced scope and coverage. Hence, the depth of professional experience necessary could be lower or different for the non-DEA-based experts. The requirement will be specific to the individual entity that is recruiting the experts.

16. At this level, the PPP expert in the entity will ensure that proper coordination is maintained with the PPP expert at DEA for purposes of providing relevant information for preparing the regular reports. In all instances, the reporting and coordinating arrangements will be through the Government officer at the PPP cell in the entity.