GOVERNMENT OF KERALA

TWELFTH FIVE YEAR PLAN (2012-17)

WORKING GROUP ON
PUBLIC PRIVATE PARTICIPATION

REPORT

STATE PLANNING BOARD
October 2011

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PREFACE

The Working Group on Public Private Participation for the Twelfth Five Year Plan was constituted by the State Planning Board, Government of Kerala as one among the Forty Seven Working Groups. The Working Group held three sessions, the outcome of which is submitted as a Report of Recommendations. I thank Shri. K.M. Chandrasekhar, Vice-Chairman, Kerala State Planning Board and Shri. Subrata Biswas IAS, Member Secretary, Kerala State Planning Board for entrusting this task. I am very much thankful for the team effort and co-operation extended by all the members of this group during the deliberations and preparation of the Report.

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Public Private Partnership in Kerala

1. Preamble

1.1. Provision of public services and infrastructure has traditionally been the exclusive domain of the Government. However, with increasing population pressures, urbanisation and other developmental trends, the Government's ability to adequately address the public needs through traditional means has been severally constrained. This has led the Government's across the world to increasingly look at the private sector to supplement public investments and provide public services through Public Private Partnerships (PPP).

1.2. The Approach Paper to the Eleventh Plan by the Planning Commission of India emphasizes the need "to reach out to the private sector, and private savings, and to the other mechanisms available in the market today to raise funds" (Planning Commission, June 2006, "An Approach to the Eleventh Five Year Plan"). The National Development Council (NDC) has passed a resolution which mentions that "increased private participation has now become a necessity" to mobilize the resources needed for infrastructure expansion and up-gradation. The Approach Paper to the Eleventh Plan has called for aggressive promotion of private partnership in infrastructure development.

1.3. In pursuance of this goal, the Government of India (GoI) stays committed to the substantive role for PPPs as a means for harnessing private sector investment and operational efficiencies in the provision of public assets and services. Private investment in India constituted about 25% of the total investment in infrastructure in the Tenth plan. This is 36% in the Eleventh plan and is expected to rise further to the level of 50% for the Twelfth Plan.

1.4. The Government of Kerala (GoK) recognises that high levels of economic and industrial growth can be achieved only if infrastructure is developed at a commensurate pace. The infrastructure investment requirements in the State are enormous that it cannot be met from the public sector alone. GoK also appreciates that the private sector can play a substantial role in infrastructure development, and that given the right polices and frameworks, adequate private investment can become available. Therefore, PPP is seen in Kerala as an option to accelerate the execution and operation of infrastructure development projects to achieve sustainable and inclusive growth.

1.5. PPPs offer a number of advantages in terms of enhancing the ability to take a larger shelf of infrastructure investments with specialized expertise, use of new and innovative technology, financial innovation and development of cost-effective solutions, bring in efficiencies in operation and maintenance, reducing time and cost over runs, create employment opportunities in the infrastructure sector, as well as supplements scarce resources. GoK intends to move in this direction and utilise the potential for attracting private investment for ensuring rapid expansion in infrastructure in the State.

1.6. This Approach Paper is to provide a framework on the increasing role for PPPs in Kerala – both in creating new infrastructure assets as well as in managing the assets already created, where appropriate - in a consistent and effective manner taking care of all the possible stakeholders that can be a part of the PPP project development process.

2. Defining Public Private Partnerships

2.1. Different perceptions exist amongst various stakeholders on what constitutes a Public Private Partnership (PPP). There are views that a venture can be termed a PPP only when there is a private investment, while others contend that all forms of interactions between the public sector and the private sector, from consultations or policy dialogue and collaboration, to private provision of assets and services can be qualified as a PPP.

2.2. Defining PPP would also facilitate to identify eligible projects or arrangements that could avail desired benefits or applicable procedures or treatment. For example, a project when designated as a PPP, can access various types of government support like viability gap funding, project development funding etc. Moreover, provision of government support, contingent liabilities, potential fiscal implication of PPPs, protection of user interests, need to secure value for public money and requirements of a higher public scrutiny - makes the parameters for its designation very important.

2.3. To make it convenient for preparation, institutionalisation and undertaking infrastructure projects and also in availing various types of funding from Government of India viz. the viability gap funding, project development funding etc., the approach paper propose to use the Government of India Definition on PPP[1], which is as follows:

2.4. Essential conditions in the definition are as under:

i. Arrangement with private sector entity: The asset and/or service under the contractual arrangement will be provided by the private sector entity to the users. An entity that has a majority non-governmental ownership, i.e., 51 percent or more, is construed as a private sector entity;

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[1]PPP means an arrangement between a government or statutory entity or government owned entity on one side and a private sector entity on the other, for the provision of public assets and/ or related services for public benefit, through investments being made by and/or management undertaken by the private sector entity for a specified time period, where there is a substantial risk sharing with the private sector and the private sector receives performance linked payments that conform (or are benchmarked) to specified, pre-determined and measurable performance standards.

http://www.pppinindia.com/pdf/scheme_guidelines_Financial_Support_PPP_Infrastructure-english.pdf

ii. Public asset or service for public benefit: The current facilities/ services being provided are traditionally provided by the Government, as a sovereign function, to the people. To better reflect this intent, two key concepts are elaborated below:

a. Public Services are those services that the State is obliged to provide to its citizens or services the State has traditionally provided to its citizens.

b. Public Asset is that asset the use of which is inextricably linked to the delivery of a Public Service, or, those assets that utilize or integrate sovereign assets to deliver Public Services. Ownership by Government need not necessarily imply that it is a PPP.

iii. Investments being made by and/or management undertaken by the private sector entity: The arrangement could provide for financial investment and/or non-financial investment by the private sector; the intent of the arrangement is to harness the private sector efficiency in the delivery of quality services to the users;

iv. Operations or management for a specified period: The arrangement cannot be in perpetuity. After a pre-determined time period, the arrangement with the private sector entity comes to a closure;

v. Risk sharing with the private sector: Mere outsourcing contracts are not PPPs;

vi. Performance linked payments: The central focus is on performance and not merely provision of facility or service;

vii. Conformance to performance standards: The focus is on a strong element of service delivery aspect and compliance to pre-determined and measurable standards to be specified by the Sponsoring Authority;

2.5. The above definition puts forth only the essential conditions for an arrangement to be designated as a Public Private Partnership (PPP). In addition, some of the desirable conditions or good practices for a PPP include:

i. Allocation of risks in an optimal manner to the party best suited to manage the risks;

ii. Private sector entity receives cash flows for their investments in and/or management of the PPP either through a performance-linked fee payment structure from the government entity and/or through user charges from the consumers of the service provided;

iii. Generally a long term arrangement between the parties but can be of a shorter term dependent for instance on the sector or focus of PPP;

iv. Incentive and penalty based structures in the arrangement so as to ensure that the private sector is benchmarked against service delivery;

v. Outcomes of the PPP are normally pre-defined as output parameters rather than technical specifications for assets to be built, though minimum technical specifications might be identified. Such a structure is expected to leave room for innovation and technology transfer in project execution / implementation by the private sector entity;

2.6. The models where ownership of the underlying asset remains with the public entity during the contract period and project is transferred back to the public entity after the termination contract are the preferred forms of PPP models. The final decision on the form of PPP is a determinant of the Value for Money analysis.

2.7. Some of the commonly adopted forms of PPPs include management contracts, build operate- transfer (BOT) and its variants, build-lease-transfer (BLT), design-build operate- transfer (DBFOT), operate-maintain-transfer (OMT), etc.

In order to bring in innovative technology, financing and execution, the SWISS Challenge route is to be encouraged. In this method, A Private Sector Enterprise (the original proponent) Suo- Moto identifies a project and then approach the government with the proposal. The Government subsequently starts a competitive bedding process for the project in accordance with the PPP Policy. Generally, the proprietary information contained in the proposal made by the original proponent is kept confidential. In order to make such proposals, the government may offer Special privileges to the original proponent. The Government should provide the original proponent an opportunity to match or better the winning bid on completion of the competitive bidding process. (In other words, a right of first refusal) sufficient care should be taken by fixing certain challenge fee to avoid frivolous counter proposals.

Major Advantages of the Swiss Challenge are:

1. Initiative in spotting a public need which has not been identified and specific solutions / technologies have not been defined.

2. Innovation in terms of Technology, financing and execution among others.

3. Savings in costs due to innovative designs, timely project implementation and higher efficiencies in operations.

4. Enhanced quality of services to users due to better Managerial Practices & Efficiencies.

2.8. Build-own-operate (BOO) model is normally not the supported form of Public Private Partnership in view of the finite resources of the Government and complexities in imposing penalties in the event of non-performance and estimation of value of underlying assets in the event of early termination. The Government does not recognise service contracts, Engineering-Procurement-Construction (EPC) contracts and divestiture of assets as forms of PPP.

2.9. To cater to different objectives and contexts, each competent government authority/department/institution that uses the PPP definition to designate projects as PPP would need to specify its own set of essential conditions. Such conditions should be in addition to the common definition and should be exclusively for a specific purpose like grant of VGF support, public scrutiny or provisioning of contingent liabilities, etc.

Once the Private Sector is awarded with a PPP Project, Government/ the Sponsoring agency does not have any control on the project except those enforced by the Concession Agreements. Government has created specific PPP companies such as CIAL, INKEL etc for infrastructure development through PPP route. These companies with 26% Govt. share gives the GoK control on all policy decisions and Management of the Company. Also, it may be noted that the GoI has initiated diluting the shares of the Govt. undertakings. It is likely that in the near future, the 26% Govt. stake companies will meet the Govt. objectives with minimal investment of the Government while ensuring public interests. Also, in the PPP projects, GoI and States put together give a VGF up to 40% of project cost. Hence, Govt. can consider taking 26% equity stake and run the PPP with private sector efficiency. Hence, Kerala PPP Policy should include provision for assigning certain projects on nomination basis to such Government promoted PPP companies.

3. Objectives of Infrastructure Development with PPP in Kerala

3.1. The Government of Kerala intends to provide a fair and transparent framework to help facilitate the process and encourage Public-Private Partnership in upgrading, expanding, and developing of infrastructure in the state. A State PPP policy should be enacted in this regard for undertaking projects in PPP. The main objectives of the PPP policy should be:

i. To harness private sector efficiencies in asset creation, maintenance and service delivery;

ii. To provide focus on life cycle approach for development of a project, involving asset creation and maintenance over its life cycle;

iii. To enable affordable and improved services at an optimal cost to the users in a responsible and sustainable manner.

iv. To provide a fair and transparent framework to facilitate and encourage PPP mode of implementation for provision of public assets and/or related services.

v. To adopt an efficient, equitable, consistent, transparent and competitive process for selection of private partners, and ensure efficient governance over the project life cycle.

vi. To protect the interests of end users, project affected persons, private and public sector entities and other stakeholders.

3.2. The PPP policy shall also take care of the following broad objectives:

i. Prepare a shelf of projects to be offered on PPP and ensure technical, economic and financial viability of infrastructure projects;

ii. Create opportunities to bring innovation and technological improvements to maximize the social and economic returns to public investment;

iii. Provide the necessary risk-sharing framework in the project structure so as to assign risks to the entity most suited to manage them;

iv. Create a robust dispute redressal mechanism for PPP projects.

v. Provide project development funding to essential infrastructure projects, provided such contribution is necessary in greater public interest.

vi. Provide Viability Gap Funding (VGF), where required.

vii. Promote sustainable development and inclusive economic growth in the State through development of infrastructure.

3.3. Recognising the imperatives to accelerate the delivery of efficient Public Private Partnerships to achieve the overall development goals, the Government would develop programmes, guidelines and practices based on the broad objectives listed above.

3.4. The infrastructure sectors covered by the Government, which may be modified from time to time, are as follows:

i. Roads and Bridges.

ii. Ports and Harbors.

iii. Airports, Airstrips and Heliports.

iv. Inland container depots and logistics hubs.

v. Industrial / Theme Parks viz. IT, BT, SEZ, Knowledge Parks.

vi. Information Technology related Infrastructure.

vii. Water supply, Treatment and Distribution.

viii. Power Generation, Transmission and Distribution Systems.

ix. Solid waste Management.

x. Sewerage & Drainage and Effluent Treatment plants.

xi. Inland water Transport.

xii. Tourism and related infrastructure.

xiii. Health care Facilities.

xiv. Education.

xv. Canals, dams, weirs and Irrigation systems.

xvi. Public markets.

xvii. Fisheries and related projects.

xviii. Sports and Youth related projects.

xix. Non-conventional energy.

xx. Land reclamation projects.

xxi. Convention centers, trade fair, exhibition centers.

xxii. Urban infrastructure including entertainment and recreational facilities.

xxiii. Urban Transportation Systems viz. Public transport, Bus-terminals.

xxiv. Agriculture Production and Marketing.

xxv. Any other sector / facility as may be included by the Government.

4. The PPP Institutional Framework

4.1. This approach paper proposes for a two-level PPP institutional framework for the State functional at:

i. State Planning Board; and

ii. Finance Department;

PPP Cell in the Kerala State Planning Board.

4.2. The PPP Cell stationed in the Planning Board shall be facilitating all efforts of the State Government regarding PPP projects. The Cell will also take important decision on:

i. Granting State Government assistance[2] of 20% of the Total Project Cost over and above the GoI VGF to make the project viable and attractive;

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[2] Scheme for Financial Support to Public Private Partnerships in Infrastructure Page 13, Section 5, clause 5.1: The quantum of financial support (VGF) to be provided under this Scheme shall be in the form of a capital grant at the stage of project construction. The amount of VGF shall be equivalent to the lowest bid for capital subsidy, but subject to a maximum of 20 percent of the total cost. In case the sponsoring Ministry/ State Government/ Statutory entity propose to provide any assistance over and above the said VGF, it shall be restricted to a further 20 percent of the total project cost (see Rule 4.1 and 4.2)

www.pppinindia.com/pdf/scheme_Guidelines_Financial_Support_ppp_Infrastructure-english.pdf.

ii. Project development on 'Annuity' mode, as annuity projects involves long term financial implications, normally of the order of 15 to 20 years;

4.3. The PPP Cell in the Planning Board shall undertake all functions to fulfill the objectives including the following:-

i. Identifying and conceptualizing. Create suitable projects for implementation within various sectors or departments or geography on PPP route;

ii. Developing internal evaluation guidelines in consultation with the respective departments to evaluate and assess the projects;

iii. Reviewing and developing Model Concession Agreements (MCA) for various sectors, Model Request for Qualification (RFQ), Model Request for Proposals (RFP) documents;

iv. Undertaking appraisals and recommending the projects to the Kerala PPP Appraisal Committee (KPPPAC)/ Kerala Empowered Committee on PPP (KECPPP) to grant approvals to PPP projects and also matters concerning to the proposed Kerala State PPP Infrastructure Development Fund (KIDF) for project implementation;

v. Recommending and approving bid documents, Concession Agreements, risk sharing principles and bid processes;

vi. Recommending to the Government any special grants and concessions for projects on a case to case basis;

vii. Inspecting, visiting, reviewing, monitoring, or calling for any details related to PPP projects during implementation, execution, operation,maintenance and management;

viii. Recommending enactment of special legislation for formulation of appropriate regulatory mechanism, robust grievance redressal mechanism as may be deemed fit for the project;

4.4. The arrangement at the Finance Department will have a three-tier institutional setup comprising the following, which will provide an effective and efficient arrangement for furthering the objectives of the State Policy. PPP Cell at the Finance Department – State PPP Nodal Agency.

PPP Cell at the Finance Department - State PPP Nodal Agency

4.5. A PPP Cell shall be stationed in the Finance Department (as all these projects will have to come to finance for any/all approvals) and shall be the Nodal Agency to co-ordinate all efforts of the State Government regarding PPP projects.

4.6. The PPP Cell shall undertake all functions to fulfill the objectives including:-

i. Identifying, conceptualizing and creating a shelf of projects and recommend approval of suitable projects for implementation within various sectors or departments or geography on PPP route;

ii. Supervising the preparation of feasibility studies and submitting the proposals of PPP projects to Kerala PPP Appraisal Committee (KPPPAC)/ Kerala Empowered Committee on PPP (KECPPP);

iii. Appointing and selecting Consultants for developing PPP projects;

iv. Ensuring rigorous adherence to managing effective and transparent tendering processes;

v. Providing support and advice to departments throughout the PPP processes;

vi. Acting as the nodal agency for capacity building for PPP, through training and technical assistance, to increase the deal flow of eligible projects;

vii. Serving as a focal point on PPP Projects to consumers, investors and other government entities on the benefits and procedures for PPP in a given sector;

viii. Inspecting, visiting, reviewing and monitoring PPP projects under implementation;

ix. Carrying out bid evaluation and submitting recommendations on contract award to the KPPPAC/KECPPP;

x. Managing the Kerala PPP Project Development Fund (KPDF) and Kerala Infrastructure Development Fund (KIDF) proposed to be created;

4.7. The Cell shall be under the direct supervision of the Secretary, Finance Department who would act as the State PPP Nodal Officer. It would act as the Secretariat of the KECPPP and KPPPAC.

4.8. It is envisaged that the PPP Cell, over a period of time, will emerge as a separate entity co-ordinating the entire PPP and related activities, and take the shape of a Kerala Infrastructure Development Board.

Appraisal Committee

4.9. The Kerala Public-Private Partnership Appraisal Committee (KPPPAC) is to be constituted under the Chairmanship of the Principal Secretary (Finance), the other members of TNPPPAC shall be as under:

i. Principal Secretary - Sponsoring Department;

ii. Head of Department, Sponsoring Department;

iii. Secretary, Finance, Nodal Officer (PPP)-Member secretary;

4.10. The Committee may co-opt officials and experts as and when necessary;

Functions of the KPPPAC

4.11. The functions of the KPPPAC shall include:

i. Recommending the projects to the KECPPP to give in-principle approvals, advise different government departments / agencies in preparing pre-feasibility reports;

ii. Recommending to the KECPPP for final award of the project to the Private Investor;

iii. Recommending and approve bid documents, Concession Agreements, risk sharing principles and bid processes;

iv. Reviewing and recommending projects for Viability Gap Funding (VGF) to KECPPP;

v. Deliberating and Recommending to the KECPPP any special grants and concessions for projects on a case to case basis;

vi. Co-ordinating the efforts of other departments for the furtherance of the objectives of the State Policy;

vii. Interacting with Planning Commission of India, Government of India and other multi-lateral funding agencies for all issues regarding PPP projects including obtaining approval under Viability Gap Funding / India Infrastructure Project Development Fund (VGF/IIPDF);

Kerala Empowered Committee on PPP (KECPPP)

4.12. There shall be a high-level inter-departmental PPP Committee to approve all infrastructure projects being undertaken in the PPP mode. This Committee would be constituted under the Chairmanship of the Chief Secretary, Government of Kerala and would be called the Kerala Empowered Committee on PPP (KECPPP). The other members of KECPPP shall be as under:

i. Principal Secretary, Finance;

ii. Principal Secretary, Industries;

iii. Principal Secretary, LSG;

iv. Principal Secretary, Revenue;

v. Secretary, Finance, Nodal Officer (PPP) - Member secretary;

vi. Principal Secretary - Sponsoring Department;

4.13. The Committee may co-opt other officials and experts as necessary.

Functions of the Kerala ECPPP

4.14. The Committee will have jurisdiction over all projects developed under the public-private partnership format. The Committee will have the following terms of reference:

i. To approve projects, forward projects to Apex Committee on PPP for policy decisions , reject, give in-principle approval, or send PPP projects for reconsideration at the inception or concept stage;

ii. To approve, reject or send for reconsideration of project proposals for Viability Gap Funding (VGF) by the department or agency;

iii. To deliberate and recommend to the Government for approval/ rejection of projects after the finalization of bids;

iv. To approve the projects to be undertaken with the assistance of Kerala PPP Project Development Fund (KPDF) and to determine the quantum of assistance both for Project Development and Viability Gap funding;

v. To recommend to the Government any special grants and concessions for projects on a case to case basis;

vi. To co-ordinate among various Government agencies and resolve all inter-departmental issues impeding PPP project preparation and implementation and provide necessary directions;

vii. To assess, prescribe and monitor the time limits for clearances for any project at all stages of development and implementation;

viii. To inspect, visit, review, monitor, or call for any details related to PPP projects during implementation, execution, operation, maintenance and management;

ix. To recommend enactment of special legislation for formulation of appropriate regulatory mechanism, robust grievance redressal mechanism as may be deemed fit for the project;

x. To interact with Planning Commission of India, Government of India and other multi-lateral funding agencies for all issues regarding PPP;

xi. To take all steps necessary for enforcing the above guidelines;

Apex Committee on PPP (ACPPP)

4.15. This shall be a highest level PPP Committee to approve all infrastructure projects being undertaken in the PPP mode. This Committee would be constituted under the Chairmanship of the Chief Minister, Government of Kerala and would be called the Apex Committee on PPP (ACPPP). The other members of ACPPP shall be as under:

i. Minister of Finance;

ii. Minister of Industries;

iii. Minister of Revenue;

iv. Vice Chairman – Planning Board

v. Chief Secretary - Member secretary;

vi. Minister of the Sponsoring Department;

4.16. The Committee may co-opt other officials and experts as necessary.

Functions of the ACPPP

4.17. The Committee will have jurisdiction over all projects developed under the public-private partnership format. The Committee will have the following terms of reference:

i. To finally approve the project for signing the concession agreement with the successful private investor or to place the project before the Cabinet for final approval;

ii. Setting out the broad policies and principles for pursuing projects on PPP basis;

iii. Co-ordinating the cross-sectoral institutional architecture and mechanisms for facilitating and implementing PPPs;

iv. Identifying and mitigating the possible challenges, if any, to mainstream, upscale, broaden and expedite PPPs and PPP projects;

v. Attaining appropriate public oversight and monitoring of PPP projects.

Fixing time frame for each committee for avoiding delays.

4.18. To avoid delays, a time limit may be fixed for each level decision making for the three Committees Viz.

1. Kerala State PPP Appraisal Committee (KPPPAC)
2. Kerala Empowered Committee on PPP (KECPPP)
3. Apex Committee on PPP (ACPPP)

Final approval of the project

4.19. The outcome of the bidding process along with the concessions to be granted will be placed before the KPPPAC, the KPPPEC and thereafter to ACPPP, and if required to the Cabinet (If project cost is above Rs. 25 cr. or above 15 years of operation), for final approval before award of the project to the developer.

Monitoring of the projects

4.20. The KPPPAC, with the assistance of the State PPP Cell, will monitor the progress of PPP projects regularly. All the Departments / Agencies shall have a PPP Project Management Unit (PMU) for undertaking/monitoring PPP projects and will keep the PPP Cell informed regarding the latest development on a monthly basis.

Management Information System (MIS)

4.21. The Cell will also develop an on-line PPP MIS which will have details on the policy, PPP database, PPP pipeline, project monitoring, project knowledge base resource pool, case studies, relevant documents, etc., which can be accessed for PPP project development.

Transparency and disclosure of information

4.22. All the details of the project that is bidded out including the copy feasibility study, request for qualification, request for proposal, minutes of the pre-bid meetings, all communications to the bidders and concession agreement shall be uploaded in the PPP Cell website as the Concession Agreement is signed with the proposed private investor.

Settlement of disputes

4.23. In the event of a dispute, both parties (Government department/agency and private sector entity) will make sincere attempt to resolve the dispute amicably. If both the parties fail to reach a settlement the matter will be referred to the KECPPP who will attempt to resolve the dispute as per the agreed and signed agreement / concession between the department and the private sector player.

5. Kerala PPP Related Funds

5.1. Government of Kerala shall consider the incorporation of the Kerala PPP Project Development Fund (KPDF), Kerala PPP Infrastructure Development Fund (KIDF) and Kerala PPP Capacity Building Fund (KCBF).

Kerala PPP Project Development Fund (KPDF)

5.2. Some proposed PPP projects may require the project development costs including those for feasibility studies, legal reviews, environmental impact studies, financial structuring, development of project documentation, etc. The GoK may contribute up to 80% of such project development costs. The rest may be contributed by the Sponsoring Authority. On successful bidding process, the project development expenditure would be recovered with profit from the successful bidder. In the case of failure of bids, the project development expenditure would not be recovered from the concerned Government Department / Agency. If the Department abandons the project for the reasons other than technical non-viability or lack of investor interest at the bidding stage, the amount spent on project development, should be reimbursed to the Fund from the plan funds of the department. Either or both the conditions can be relaxed by the ECPPP in special cases.

5.3. For projects availing Indian Infrastructure Project Development Fund[3] (IIPDF) of GoI, a maximum of 25% of the project development expenses shall be extended from KPPPPDF. The recovery it will be the same as above.

5.4. In this backdrop, the State Government may establish a Kerala PPP Project Development Fund (KPDF). A sum of Rs. 25 crores (Rupees Twenty Five crores) may be earmarked for the same.

5.5. Detailed guidelines for establishment and operation of the Fund may be issued. It is envisaged that the support contemplated under this Fund shall be applicable:

i. For infrastructure projects which, in the opinion of the Government, satisfy / offer potential to satisfy the public need; and

ii. Only for infrastructure projects on a PPP basis.

[3]www.pppinindia.com/pdf/scheme_Guidelines_Financial_Support_ppp_Infrastructure-english.pdf.

5.6. Here "Public Need" shall be determined by the Government after considering:

i. Common use and needs of the community;

ii. Appropriateness of the project in relation to the development plans of the Government; and

iii. Possibility of the project otherwise not being implemented;

Kerala PPP Infrastructure Development Fund (KIDF)

5.7. The Government shall establish a fund to be called "Kerala Infrastructure Development Fund (KIDF)" and may levy cess /tax separately to augment this fund. The fund will be utilized:

i. To provide additional State grants up to 20% of the total project cost to the infrastructure projects to make them commercially viable under the "Scheme for Financial Support to Public Private Partnerships in Infrastructure[4]" of GoI.

ii. To repay annuities for infrastructure projects.

iii. To provide not more than 50% State support in the form of equity to SPVs created for the development and implementation of infrastructure projects on PPP basis.

iv. To provide for any other purposes in pursuance of the State Policy and building of infrastructure in the State;

[4] Scheme for financial Support to Public Private Partnership in Infrastructure Page 13, Section 5, clause 5.1: The quantum of financial support (VGF) to be provided under this Scheme shall be in the form of a capital grant at the stage of project construction. The amount of VGF shall be equivalent to the lowest bid for capital subsidy, but subject to a maximum of 20 percent of the total project cost. In case the sponsoring Ministry/ State Government/ Statutory entity propose to provide any assistance over and above the said VGF, it shall be restricted to a further 20 percent of the total project cost (see Rule 4.1 and 4.2).

www.pppinindia.com/pdf/scheme Guidelines Financial Support PPP Infrastructure - english.pdf

5.8. The fund will be administered and managed by the KECPPP. A sum of Rs. 100 crores (Rupees One Hundred crores) may be earmarked for the same. Detailed guidelines for establishment and operation of the Fund may be issued.

Kerala PPP Capacity Building Fund (KCBF)

5.9. It is a well known fact that there are apprehensions on the approach and modalities of PPP. It is very essential to train the officers of various line departments on the benefits and virtues of PPP projects. Therefore a continuous capacity building exercise should be extended to make them conversant with the process and terminologies of PPP. These officers will be flag bearers of PPP in the long run, and are presumed to disseminate information on the benefits of PPP to their department and public at large. Therefore, it is advised that a Kerala PPP Capacity Building Fund (KCBF) shall be initiated to achieve the above goals.

5.10. The program can be strengthened in association with the 'National PPP Capacity Building Program' of the Government of India. The 'PPP Capacity Building Fund' may be initiated for a span of two financial years starting from April 2011. A sum of Rs. 50 lakhs (Rupees Fifty lakhs) may be earmarked for the same for two years. The same can be undertaken in association with IMG and /or KILA.

Establishment Funds for PPP

5.11. An Establishment Fund for PPP may be incorporated to take care of the establishment and related requirement which is related to PPP Cell in Finance Department and Planning Board. The Fund can also be utilized for organizing conferences, seminar, consultations, interaction etc. related to PPP. A sum of Rs. 15 crore (Rupees Fifteen crores) may be earmarked for the same for the next five-year plan.

6. Protection of Stakeholders Rights

6.1. The rights of the users, developers, the local community and lenders, together referred to as stakeholders, shall be protected. The various mechanisms considered shall include:

i. Adequate legislative and administrative support for successful and timely implementation and operation of the project while safeguarding the interests of the stakeholders;

ii. Adequate legislative and administrative support for levy and collection of user charges;

iii. Adopting, adapting and developing Model Concession Agreements (MCAs) and incorporating in all project documents the requisite clauses for protection of the rights of all stakeholders;

iv. Structuring of concession agreements incorporating service standards, revenue streams and levy of equitable user charges also providing for exempt category of users, wherever applicable;

v. Setting up of Independent Regulators appellate forums and other robust dispute redressal mechanism.

7. Outlay for the Twelfth Plan (2012-2017) and Priority Sectors.

7.1. The Government of India (GoI) lays emphasis on Public Private Partnerships (PPP) as an important tool in accelerating infrastructure development to achieve inclusive growth since the Tenth Plan. In the National context, private investment constituted about 25% of the total investment in infrastructure in the Tenth plan. This is 36% in the Eleventh plan and is expected to rise further to the level of 50% for the Twelfth Plan.

7.2. As Government of Kerala also intends to move in this direction not only to build public assets, but to capitalise on the private sector efficiencies in managing the assets. Considering the inherent potential of the State, the line departments in Kerala can play a critical role in attracting appreciable investments under PPP.

7.3. It will therefore be appropriate to keep a modest 15-20% of the total investment in infrastructure of Kerala, as the target for the Twelfth Plan.

7.4. Relaying on the inherent strengths of Kerala, projects in sectors like Tourism, Health care, Ports, Airstrips, Theme parks, Water transport, Agriculture, Irrigation systems and Sports shall be undertaken on a priority basis.

8. Aligning with the Government of India PPP Initiatives.

8.1. As mentioned in the previous section, The Government of India (GoI) lays emphasis on Public Private Partnerships (PPP) as an important tool in accelerating infrastructure development to achieve inclusive growth. In this context, the Department of Economic Affairs (DEA), Ministry of Finance, Government of India is currently undertaking a Technical Assistance (TA) program with the Asian Development bank (ADB) for 'Mainstreaming PPP in India'.

Services for State PPP Cell

8.2. As per the TA program, states have to sign a Memorandum of Understanding (MoU) with the DEA to gain services of two Consultants - a PPP Expert and an MIS Expert who will hand hold the Government in preparing, institutionalising and capacity building for undertaking PPPs. The Consultants will directly interact with the Nodal Officer of the PPP cell, which is the Secretary (Finance). The remuneration to the Consultants' will be borne by the ADB. The Government of Kerala may contact the DEA for the State to be a part of the TA program.

8.3. The PPP Cell shall be lead by a Joint Director and have a regular Government structure, with two technical staff conversant with PPP/Project Finance who shall take up the Consultants' work at the end of the GoI TA program.

8.4. The services of the TA program can also be utilised for making State specific PPP Tool Kits for sectors like Urban Transport, Water Supply etc. which will be handy for longterm nurturing of PPP in Kerala.

PPP Cell in the Kerala State Planning Board

8.5. The State Planning Board may appoint an Advisor (PPP) to the Member Secretary, who shall advise and facilitate on the entire gamut of PPP activities right from project identification to signing of Concession Agreement and monitoring of PPP projects. Two Consultants may also be appointed to take the PPP modalities including appraisal of the projects for KIDF and final approval of the project.

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PROCEEDINGS OF THE MEMBER SECRETARY, STATE PLANNING BOARD

(Present: Shri. Subrata Biswas IAS)

Sub : Formulation of Twelfth Five Year Plan (2012-17) – Working Group on Public Private Participation and Development Process - Constituted - Order Issued

Order No: 2222(2)/11/PCD/SPB Dated 25.8.2011

In connection with the formulation of Twelfth Five Year Plan (2012-17), it has been decided to constitute various Working Groups under the priority sectors. Accordingly, the Working Group on Public Private Participation and Development Process is hereby constituted as detailed below:

Working Group on Public Private Participation

Sl.No.	Name & Address	Designation
1	Sri. T. Balakrishnan IAS Additional Chief Secretary Govt. Secretariat, Thiruvananthapuram	Chairman
2	Sri. V.J.Kurien IAS Managing Director Cochin International Airport Limited, Kochi	Member
3	Sri. L.Radhakrishnan IAS Chairman, Jawaharlal Nehru Port Trust,Mumbai	Member
4	Sri. Jose Dominic Cochin Chamber of Commerce, Kochi	Member
5	Sri. Reghu Ram, IIM, Ahamedabad	Member
6	Sri. Ajay Pande, Professor, IIM Ahamedabad	Member
7	Sri. Ramnath, Managing Director, KINFRA	Member
8	Sri. Premachandra,CGM, Telecom, Kerala	Member
9	Dr. B. Chandrachoodan Nair Nilavu, II Sreelane, Kochar Road, Sasthamangalam, Thiruvannathapuram	Member
10	Sri. D.Prashanth, Chief, P.C. Division	Convener
11	Smt. R.L.Latha Deputy Director, PCD, SPB, Tvpm	Jt. Convener

2. Terms of Reference

(i) To suggest possibility of undertaking major development projects under PPP in the State.
(ii) To identify areas and sectors where PPP can be introduced during XII Five Year Plan
(iii) To project the likely flow of funds under PPP during the Twelfth Five Year Plan and its sources.

3. The Chairman is authorized to co-opt additional members in the Working Group, if necessary, and to modify the terms of reference, if required with the approval of the Board. Sub-committees if any required can also be constituted with the approval of Hon'ble Vice Chairman. The working group will submit the draft report before 30th Sept. 2011.

4. The Non-official members of the Committee will be entitled to travelling allowances as applicable to Class I Officers of the Government of Kerala. The local non-official members residing beyond 8 Km from the Head Quarters will be eligible for mileage allowances as per rules. The expenditure towards T.A, D.A. and honorarium will be met from out of the outlay provided under the Head of Account "3451-00-101-93" - Surveys and Studies, 2011-12

Sd/-
Subrata Biswas
Member Secretary

To

The Chairman / Members

Copy to

1) Spl. P.S. to V.C.
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