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Draft Consultation Paper on Public Private Partnership (PPP) in Higher & Technical Education (HTE)

Planning Commission
2008

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1. 11th Plan Objectives, Targets and Major Initiatives:

1.1. Expansion, inclusion and rapid improvement in quality throughout higher and technical education system through enhancing public spending, encouraging private initiatives and initiating long-overdue reforms form the core of 11th Plan initiatives for higher education. Gross Enrolment Ratio (GER) in higher education is planned to be raised from the present 10% to 15% by 2012, implying, thereby, that enrolment in higher education has to increase to 21 Million from 14 million and that enrolment in higher and technical education has to increase at an annual rate of 8.9 % and 14% respectively.

1.2. Above objectives and targets are to be achieved by (a) enhancing support to existing institutions/programmes/schemes for expansion, quality upgradation and for making higher education inclusive; (b) establishing new institutions (16 Central Universities, 14 World Class central Universities, 370 colleges in low GER districts, 8 IITs, 7 IIMs, 10 NITs, 20 IIITs, 5 IISER, 2 SPAs and 50 Centres for training and research in frontier areas), establishment of new polytechnics; (c) effecting long overdue academic, administrative, governance and financing reforms in higher education system, and (d) leveraging/expediting private investment.

2. 11th Plan Allocation and Resource Gap

2.1. Allocation for Higher and Technical Education (HTE) during the 11th Plan has, therefore, been raised from Rs 9,600 Crore in 10th Plan to Rs. **84,943 Crore in 11thth Plan (out of which Rs. 30,682 Crore is for the initiatives described in 1.2 above and the balance for ongoing schemes)**. However, even such a massive increase in public investment would not be sufficient to meet the needs of stated objectives. Resource requirements for new initiatives work out to be in excess of **Rs 2.52 lakh Crore** indicating a **Resource Gap** of more than **Rs. 2.22 Lakh Crore**.

Sector	Total Financial Requirements (Rs in Crore)	11th Plan Outlay (Rs in Crore)
University & Higher Education	212900	19,282
Technical Education	30,600	7,000
Polytechnic	8,760	4,400
Total	**252,260**	**30,682**

Item-wise Resource Requirements and Resource Availability for each of the above Sector is indicated in **Annexure-I.**

2.2. Further, we will need many more institutions than provided for in the 11th Plan in order to meet the ever-increasing demand for quality HTE. For example, if we intend to have on the average one university per district, we will have to set up another 200 universities, which will entail further investment of Rs. 1 Lakh Crore. Taken together, the total **Resource Gap** for HTE would be in excess of **Rs. 3.22 lakh Crore.**

3. Private Financing

3.1 It is thus clear that public resources would not be sufficient to meet the ever-increasing demand for quality higher education and that our policy and regulatory framework should provide for necessary enabling framework to attract private investment and Public Private Partnership in HTE sector.

3.2 Private Finance Initiative (PFI) and Public Private Partnership (PPP) in designing, developing, financing and operation is critical not only for meeting wide resource gap but also for bringing about internal and external resource-use efficiency, improvement in quality service delivery and promotion of excellence. We need to unshackle education sector also from the legacy of Licence-Permit-Raj, which, despite economic liberalisation, continue to persist in THE. It is felt that given a conducive and congenial environment, the sector has tremendous scope of attracting enlightened and value-based educational entrepreneurship both from within the country and from abroad.

3.3 Ironically, our existing policy and regulatory framework is restrictive and discouraging for quality private investments on the one hand and at the same time makes a very fertile ground for large number of unscrupulous profiteers. This is untenable and has to be reversed by creating a mechanism (effective regulator) that encourages, facilitates and support sustainable sincere and genuine private initiatives and at the same time acts as a strong deterrent for gross commercialisation and debasement of HTE.

3.4 PFI and PPP in HTE do not necessarily mean whole-hog privatisation, commercialisation and debasement of education. Education continues to remain merit good and Government responsible for ensuring provisioning of quality higher and technical education to all. Equity, social justice, inclusion, removal of gender, regional and social group disparities will continue to be dominant concerns. What it does mean is that the Policy Instruments of the Government has to be transformed from financing and regulation to assuming much wider role of being enabler, facilitator, financier and regulator. In order to ensure rapid expansion, inclusion and quality improvement in HTE, Government has to partner with the private sector sharing the common goals, objectives, vision, values and beliefs.

4. Nature of Private Financing:

4.1. An analysis of global practices on funding pattern reveals that HTE are financed by a mix of <u>(a) Government Grants (GG),</u> including Infrastructure & Development Grants (IDG), Operating & Maintenance Grants (OMGG) and Research Grants (RG); <u>(b) Philanthropic Contribution (PC)</u> comprising Endowments, Donation and Chairs; <u>(c) Internally Generated Resources (IGR)</u> consisting of Accelerated Cost Recovery (ACR), Accelerated User Charges (AUC), Third Party Revenue Generation (TPRG), Retained Earnings & Surplus (RES); <u>(d) Infrastructure Financing/Commercial Borrowing (IFCB)</u> like Commercial Borrowings (CB), Leasing & Hire Purchase (LHP); <u>(e) Public Private Partnership (PPP)</u> through Contracting & Outsourcing (CO), Private Finance Initiative (PFI), Operations and Management Contract (OMC), Design, Build, Finance, Operate (DBFO)

5. Private financing in infrastructure : IFCB vs. PPP:

5.1. Private financing choices for Infrastructure development are usually limited to IFCB and PPP. IFCB is less-favoured as it entails the borrower to provide for steady revenue stream either through Operating and Maintenance Grants from Government (OMG) or through Accelerated Cost Recovery (ACR) and Accelerated User Charges (AUC). Often, Govt. does not permit public institutions to make future commitments and, therefore, bans public institutions from borrowing. Public institutions are also not permitted to mortgage assets created out of public investments. These restrictions adversely affect access to IFCB. Besides, infrastructure development through borrowings increases 'delay' and 'default' risk of institutions. Further, it deprives public institutions of many other potential benefits and efficiency gains that PPP offers in terms of project design, implementation, operations, and management.

5.2. Public Private Partnership (PPP) is a contractual relationship between Government (Govt) and Private Service Provider (PSP) for a specific purpose/project whereby the responsibility of providing public service rests with the Govt. but the Service Delivery (SD) is actually made by the PSP. In turn, PSP shares risk and reward associated with the project. Govt. remains accountable for service quality, price certainty and cost effectiveness and its role gets redefined from 'financier' and 'manager' to 'enabler' and 'facilitator'. PSP, on the other hand, is vested with the responsibility of 'designing' 'financing', 'building' and 'operating'. Costs recovery is usually through User Charges (UC), Third Party Revenue Generation (TPRG) and Annualised Payment (AP) from Govt. for the services/ facilities acquired through PPP.

6. PPP and Privatisation:

PPP is distinctly different from Privatisation. Critical distinguishing features of PPP as compared to Privatisation are indicated below:

Privatisation	PPP
Responsibility for delivery and funding of services rests with the private sector	Involves full retention of responsibility by the government for providing the services
Ownership rights are sold to the private sector along with associated benefits and costs	Legal ownership of assets created under PPP rests with the government
Nature and scope of services are determined by the private provider	Nature and scope of services are contractually determined between the government and private service providers
All risks inherent in operation, financing and investment rests with the private sector	Risks and rewards are shared between the government and the private service providers

7. Advantages of PPP:

7.1 Besides supplementing public investments and reducing dependence on public exchequer on provisioning of quality public services, PPP also brings about efficiency gains in terms of (a) Promoting Cost-effectiveness through risk sharing and efficient use of resources leading to higher productivity and optimal risk allocation; (b) Enhancing access to modern technology leading to better project design, implementation, operations and management; (c) Making optimal risk allocation though risk sharing; (d) Promoting accountability through clear customer focus, which, in turn, results in accelerated & improved delivery of quality public service; (e) Promoting institutional autonomy by reducing dependence on public funds and in the process address issues associated with undue political and bureaucratic interference in decision making, as it empowers public institutions by making then financially self-sustaining and independent.

8. Contractual Formats of PPP:

8.1 PPP, by definition, is a well-articulated contract based on long-term relationship between public and private sectors and offers flexibility and responsiveness in decision making. This entails a purchasing & procurement mechanism to acquire specified services of a defined quality and in pre-specified quantity at an agreed price for delivery of core and no-core educational services. Scope and coverage of PPP contract encompass provisioning of core and non-core educational activities, administrative, support, maintenance, operation and management services and various contractual formats are used to decide the degree and extent of outsourcing/responsibility sharing between the Govt and PSP.

8.2 Typology of PPP contractual format based on the objectives and purposes are given in **Annexure II.** On the basis of extent and degree of responsibility sharing between Govt and PSP, the contractual formats could take one of the following two forms:

- **Management Contract (MC):** Under this format, the PSP is entrusted with the responsibility of managing an existing public service using public infrastructure as well public sector employed staff. The responsibility sharing under this format is such that **Govt** provides infrastructure and Staff whereas **PSP** is entrusted with the responsibility of managing the facility in return of an agreed price either recovered through User Charges or through payments from Govt.
- **Operational Contracts (OC):** Under this format, the PSP is entrusted with the responsibility of managing an existing public service using public infrastructure. Staffs are, however, employed by PSP itself. Thus the responsibility sharing is such that **Govt** provides infrastructure whereas **PSP** takes operations and management including manpower.

An illustrative example of various contractual formats of PPP used in education sector in different countries is given in **Annexure III.**

9. Partners/ Parties in PPP

9.1 PPP involves contractual agreement between Government and a Private Service Provider (PSP). In the context of HTE in India, parties would include: (a) **Government** including Central Government or State Government represented either directly through the concerned administrative Ministries or through the concerned Regulatory Authority. (b) **Concerned HEI,** particularly when PPP is being considered by an existing university or colleges; (d) **Stakeholders,** though PPP agreement is signed between of Government and PSP but its very nature implies that students, faculty and staff (being the ultimate beneficiary users and clients) become a partner (if not technically a party) to the PPP contract. (d) **Private Sector Partner (PSP).** PSP could be a society, a trust or a company either as in individual entity or as a consortium. Increasingly, however, the **consortium** of contractor, maintenance establishment, private investor (s) and a consulting organisation are gaining dominance. Often, the consortium forms a **Special Purpose Vehicle (SPV)** which, in turn, signs PPP contract with Government. Depending on the tasks involved and size and complexity of projects, the PSP could be small, medium, large, domestic, trans-national or hybrid

9.2 While most of the successful PPP have been in mega projects like infrastructure development, PPP can as well work in smaller projects/tasks provided the financial viability has been thoroughly worked out. Success of the PPP contracts lies in the quality of partnership. Policy focus should, therefore, be on developing 'authentic partnership' based on trust, commitment, shared belief, value, culture, transparency and accountability. Global experience suggests that conventional partnership format concerned only with short-term, bureaucratic and one-way relationship has failed to work. The guiding principle should, therefore, be reciprocity and a two-way 'win-win relationship' based on solidarity and equality.

10. PPP - Potential and Scope in HTE:

Possibilities and potentials of PPP in existing as well as in setting up new institutions are detailed in Annexure IV and are summarised below:

Scope of PPP	
In Existing Institutions	In Setting Up of New Institutions
▪ **Infrastructure Provisioning:**	▪ **Infrastructure Provisioning:**
▪ Capacity expansion	▪ Total Institutional Infrastructure
▪ Quality upgradation	▪ Partial Institutional Infrastructure
▪ Support infrastructure	▪ Support Infrastructure
▪ **Operations and Management:**	▪ **Operations and Management:**
▪ Core activities	▪ Core Activities
▪ Auxiliary services	▪ Auxiliary Services
▪ Support services	▪ Support Services
▪ Professional Services	▪ Professional Services

11. Feasible PPP Models for HTE:

11.1 PPP arrangements are dependent on the interplay of Parties involved and Functions to be outsourced. Parties include Govt and PSP whereas Functions include 'Infrastructure' and 'operations & Management'. Based on these, three basic models of PPP are feasible.

- Public Service Delivery using Private Infrastructure: Under this model, PSP makes capital investments to create infrastructure and Government takes care of operations and management: In this case design, development, financing and construction are taken care by the PSP. Government is saved from capital investment but will be required to make annualised payment to the PSP.

- Private Service Delivery using Public Infrastructure: Under this model, Government makes capital investment to create infrastructure and PSP takes care of operations and management: In this case government is saved from operations and management of the institutions. In this case the gain is more in terms of operating efficiencies

- Private Service Delivery using Private Infrastructure: Under this model, PSP invests in infrastructure and takes care of operations and management whereas Govt makes payment for using services for public sponsored students.

11.2 In Indian context, however, Parties to PPP include State Government (SG), Central Government (CG) and PSP. Similarly Functions to be outsourced include Land, Infrastructure and Operations & Management. We will, thus, have three functions and responsibilities to be shared between three parities, which obviously increase PPP choices (and associated complexities). Based on these the following PPP models appear possible:

- Private Infrastructure – Public O & M: PSP provides infrastructure recovers cost through AP from Govt running O&M; the O&M is run by SG or CG or CSG
- Private Infrastructure – Private O & M: PSP provides infrastructure, runs O & M, recovers costs through AUC/ TPRG/ and AP; AP to PSP is made by SG or CG or CSG
- Public Infrastructure – Private O & M: Land is provided by SG; Investment in infrastructure is made by SG or CG or CSG; PSP takes care of O & M and recovers cost through UC/TPRG and shares revenue with SG/CG
- Hybrid/Equity-based Model: PSP runs O & M, recovers Costs through UC/TPRG. Investment in Infrastructure is made through equity and debt. Equity is contributed equally or in certain specified ratio by SG, CG and PSP and the same is leveraged with either IFCB or with Interest free Loan/Interest Subsidy by CG or SG or CSG

11.3 Should we introduce into the matrix the possibility of sharing of operating and maintenance cost amongst various parties and stakeholders, the PPP possibilities become all the more numerous. Based on various permutations and combinations, a number of PPP models seem feasible. An illustrative list is given in **Annexure V.**

12 Addressing Misgivings and Major Concerns:

12.1 Important concerns and their solutions, as experienced internationally, are listed at **Annexure-VI.** In Indian context also there are certain myths, misgivings, apprehensions and concerns which need to be addressed.

a. Policy Framework prohibits PFI/PPP:

- Had this been true, the professional, technical, management and medical education in the country would not have been dominated by private sector. Policy and regulatory framework provides for the establishment, maintenance and management of private institutions – fully self-financed/self-sustaining as well as partially or mainly supported by central or state governments.
- Private institutions have been set up in many different forms (a) **Aided Colleges** - Privately established, privately managed but Public funded; (b) **Self-financing Colleges** - Privately established, privately managed and privately funded; (c) **Private Deemed Universities** – privately established, maintained, managed and financed; (d) **Public Deemed Universities** – privately established but public funded and managed; (e) **Private universities** - set up by different States either under existing Acts & Statues governing State Universities or by enactment of special purpose legislation or by enacting an enabling umbrella legislation for establishment of private universities. Many of these are, in fact, cited in international literature, as an example of oldest PPP in higher education.

A few remarkable HTE institutions in the country owe their genesis and existence in such initiatives.

- Major concerns, however, are two-fold. First, existing regulatory framework has encouraged large number of small institutions, often ill-equipped and bringing bad name. Secondly, the enabling provisions notwithstanding, policy confusion has continued to persist. Delay in enactment of two central legislations that could have dispelled the misgivings i.e. Private Universities (Establishment and Regulation) Bill and Foreign Universities (Entry and Regulation) has confounded the policy confusion and has deterred those who wanted to set up university-level institutions;

b. Regulatory Mechanism deters PFI/PPP

- Policy confusion apart, rules, regulations, regulatory mechanism, approval processes and procedures are stated to be the major deterrents in attracting private participation.

- Since colleges are not vested with degree-granting power and are subjected to archaic rules and regulation of affiliating universities, most being public universities, private initiatives, often in emerging and innovative areas are discouraged. Lack of transparency, cumbersome procedure and inordinate delays in getting deemed university status have also dissuaded sincere and genuine private initiatives;

- Foreign universities of repute find our regulatory mechanism particularly thwarting in their efforts to set up and operate their campuses. These institutions would not like to enter as a college or deemed university or even as a private university under state legislature for it would adversely impinge upon their status. Even if they want to, they are disqualified because of the insistence on parent body being a Society or Trust registered under Indian law.

- The only route available to foreign university is, thus, through collaboration and joint ventures with domestic institutions but there again the policy framework is not ambiguous with respect to twining programmes, franchising, dual degree, joint degree and collaborative mechanism, particularly with respect to cost and revenue sharing.

- Procedural requirements for setting up new institutions are cumbersome. They require clearance/permission/NOC from a plethora of agencies like land use certificate from Revenue Department, Building Plan requirements, NOC from State Government, affiliation procedure prescribed by affiliating university, recognition from UGC, obtaining approvals from each different statutory/professional councils (AICTE, MCI, Bar Council, Dental Council, Council of Architecture, DEC). **A detailed note prepared by FICCI on entry and operational level barriers is given in Annexure 7.**

c. Absence of Profit Motives adversely impinges on PFI/PPP:

- Educational activities in India are to be undertaken as 'Not-for-Profit (NFP)' activities. Private initiatives are welcome but they have to be operated and managed by a Society registered under Societies Registration Act or by a Trust or by a NFP company registered under section 25 of Companies Act. Various court cases (**A gist of recent cases, at Annexure 8)** have dwelt on this and related issues and as things stand today, educational institutions are prohibited to engage in **"profiteering"** but are permitted to make reasonable surplus for meeting the cost of expansion, and augmentation of facilities.

- It is argued that so long we are guided by this paradigm, PFI/PPP in HTE would not be possible for the simple reason that it leaves no scope for PSP to make reasonable return on their investments. This argument implies that unless we declare education as 'For Profit (FP)' activity private investment would not be possible and we should, therefore, consider changing this fundamental. International experience, however, runs counter to the above argument. Most of the well known, prominent and best private universities are found to be NFP institutions (Harvard and Stanford included). Even where FP educational activities are permitted, such institutions are usually small-sized and are of poor quality. Balance, therefore, falls in favour of NFP model. Philanthropic and Corporate Social Responsibility (CSR) initiatives, rather than a commercially motivated private partnership, therefore, needs to be encouraged and patronised.

- Importantly, NFP mode of operation does not prohibit institutions from contracting and outsourcing services from FP institutions. But for this, no educational institutions would have been able to acquire assets or procure any goods and services. It means that under existing framework, FP institutions can profit out of NFP institutions. When a university sets up, say, a computer lab and procures hardware from a vender, it is invariably a FP entity and charges a price which includes profit. Thus, existing rules and regulations do allow NFP entities to acquire public services for a price that includes profit to a third party. It means that PPP is not only feasible but can also thrive within the existing framework. PPP models based on Annualised Payment (AP) to PSP can therefore be used successfully as due diligence based computations of AP effectively ensures that PSP makes due return on their investments in provisioning of public infrastructure and operations and management of public services.

d. **PPP would be more viable in technical/professional courses:**

- PPP engagement requires steady revenue stream for effective cost recovery and would, therefore, be possible only in case of those projects, programmes, activities that offer such potential. This argument is often stretched to suggest that PPP would not be possible in institutions/ programmes seeking to offer courses in liberal art education or even general higher education and thus the focus of PPP would turn out to be only professional and technical higher education that attracts heavy demand.

- The argument is valid but can also be seen as a boon in disguise. It may correct prevailing imbalances in the provisioning of higher and technical education which is so heavily tilted in favour of general arts, science and commerce courses.

- Besides, even if PPP is successfully used for offering professional and technical higher education and such services that have steady revenue generation potential, it will release public resources to that extent which can be used for those activities that are socially relevant but do not have market potential.

e. **Accelerated User Charges & Cost Recovery will create affordability barrier making HTE Inequitable**:

- This is one of the most legitimate of all concerns in our socio-economic context and the overriding objectives of equity and social justice. Therefore, PPP initiatives will have to be supported by Liberal Provisions for Cross Subsidization/ Means Scholarship/ Student Loan Programme (SLP)/ Industry Sponsorship of Students (ISS)/ Earn-While-Learn (EWL)

- It may, however, be noted that the efficiency gains and possibilities of Third Party Revenue Generation by PSP can effectively reduce the unit operating cost of core educational activities. It becomes imperative that these should be factored in while negotiating annualised payment to them.

13 Policy Actions Required

- In order to dispel policy confusion and clarify on participation in HTE, we should expedite enactment of two long-pending (a) Private Universities (Establishment & Regulation) Bill; and (b) Foreign Universities (Establishment & Regulation) Bill. These legislations should be facilitative and encourage enlightened entrepreneurship that are committed to providing world class THE.

- Autonomous status be accorded to well-established, large sized and reputed colleges as degree granting status would unshackle colleges from the restrictive rules and regulations of affiliating universities. On selective basis, reputed colleges should be given choice as to whether they would want to offer their own courses or would like to be affiliated to a university so that those with established brand/name/reputation could offer courses autonomous of affiliation requirements.

- Educational activities should continue to be recognized as NFP activity but it must be clarified that HTE are allowed to (a) generate reasonable surplus for future expansion and quality upgradation; and (b) outsource core, auxiliary and support educational services on the basis of annualized payment or on per student basis from FP entities.

- Existing provisions of tax exemption for charity, donations and endowments are not sufficient to attract large scale philanthropic contribution for educational activities. All contribution to educational development may be considered as permissible business expenses and deductible in computation of taxable income.

- Prescribe clear Framework for PPP engagement/ Contractual obligations specifying details of (a) Permissible PPP Mode (s); (b) PPP Objectives & Purpose; (b) PPP Project Tenure; (c) Funding Pattern; (d) Cost Recovery; (e) Risk & Responsibility Sharing

- Prescribe detailed guidelines for PPP Project encompassing: (a) Identification/ Need Assessment/ Feasibility Assessment/ Evaluation Criteria; (b) Specifications w.r.t Design, Construction, Building Performance; (c) Quality Performance criteria/

Quality Standards; (d) Procurement Process/Bidding/ Negotiations/ selection of Bidders; (e) Agreements – Building/ Principal/Lease Agreement; (f) Evaluation/Review Procedure.

- Effect necessary changes in the Acts & Statutes of Universities to: (a) Create Enabling Provisions for Contractual engagement with PSP, Leasing out Land Resources for 25-30 years, Acquiring/ Outsourcing core/ non-core services, Term Borrowings for Infrastructure development and Co-sharing/co-ownership of Assets; (b) Encourage/ Incentivise them for IRG/TPRG/PPP engagement and (c) Provide a framework for successful PPP engagement.

- Implement PPP initiative by initiating steps involved. These include (a) Need establishment (b) Deciding Procurement Route (c) Assessing Value for Money (d) Creating project team/ Advisers (e) Deciding Tactics (f) Inviting Expression of Interest (g) Short Listing of bidders (h) Invitation to negotiate (i) Prescribing output specification (j) outlining contract specifications (k) Prescribing assessment and evaluation framework (l) Evaluation of bids (m) selection of bidders and (n) awarding the PPP contract. A broad outline of the above is given in **Annexure 9.**

14. <u>Regulatory Mechanism:</u>

- Regulatory framework requires systemic reforms in order to evolve a strong, objective and transparent regulatory mechanism which, on the one hand, encourages and facilitates entry and operation of enlightened and quality private participation in HTE and, on the other hand, acts as a strong deterrent against small, fly-by-night operators. The committee constituted by the MHRD to review the functioning of the UGC, AICTE etc should bring our such reforms in the regulatory mechanism.

- Single Window Clearance System (SWCS) be evolved for approval of colleges and universities. This may require a nodal agency for the purpose either the national or state-level regulatory authority or the concerned university.

- Existing system of prior approval for establishment of HTE institutions should be done away with. Instead a comprehensive guidelines/ norms for opening and operating HTE institutions together with a rigorous system of transparent regular and periodic accreditation be put in place. HTE institutions failing to meet the prescribed norm and/or failing to obtain accreditation should be closed down and penalized.

- Regulatory authorities like, UGC, AICTE, NCTE etc should not insist on owned buildings as a precondition for recognition, so long as facilities are good and is on a long term lease.

- Educational institutions should be allowed to let out their physical facilities and infrastructure after working hours to third parties for certain specified purposes. Presently, such a use of educational infrastructure is seen as commercial use and thereby attracting property tax at commercial rates.

Annexure-I

Resource Requirements and Resource Availability for Higher/Technical Education during 11th Plan				
	Target Number	Unit Cost (Rs in Crore)	Total Financial Requirements (Rs in Crore)	11th Plan Allocation (Rs in Crore)
University & Higher Education				
▪ New Central Universities	16	600	9600	3000
▪ World Class Central Universities	14	1000	14000	4500
▪ New Colleges in Low GER districts	370	10	3700	782
▪ Infrastructure Development in uncovered State Universities	150	50	7500	
▪ Infrastructure Development in Uncovered colleges	12000	10	120,000	7000
▪ Additional Assistance to already covered Universities	160	160	25600	
▪ Additional Assistance to already covered Colleges	5500	5	27500	3000
▪ Hostels for Women	1000	5	5000	1000
Total			**212900**	**19282**
Technical Higher education				
▪ New IITs	8	800	6400	2000
▪ New NITs	20	100	2000	500
▪ New IIITs	20	200	4000	940
▪ New IISER	5	500	2500	900
▪ New IIMs	7	200	1400	660
▪ New SPAs	2	200	400	240
▪ New Centers for Training & Research in Frontier area	50	50	2500	150
▪ Expansion and upgradation of 200 State Engineering Colleges	200	50	10000	910
▪ Upgrading 7 Technical institutions	7	200	1400	700
Total			**30600**	**7000**
Polytechnic				
▪ New Polytechnics in uncovered districts	300	12	3600	1320
▪ Strengthening of existing polytechnic	400	5	2000	1000
▪ New Community Polytechnic	580	2	1160	580
▪ Support to Engineering colleges for diploma courses	200	5	1000	1000
▪ Women hostel in 500 polytechnic	500	2	1000	500
Total			**8760**	**400**
Grand Total			**252,260**	**30,682**

Annexure II

PPP Contractual Formats based Objectives and Purposes

- **Service Delivery Contract (SDC):** Such PPs aim at outsourcing core teaching functions to PSP. Depending on the scope and coverage, these are further categorised as:

    - Specialist Tuition Partnership Contracts (STPC): PSP is outsourced teaching functions in specialist or a specific type education;

    - Comprehensive Tuition Partnership Contract (CTPC): PSP is outsourced teaching functions across multi disciplines;

    - Access Partnership Contract (APC): A CTPC aimed at enhancing access to education;

- **Services Outsourcing Contracts (SOC):** Under such PPP contracts, the PSP is outsourced to provide education related services and include:

    - Professional Services Outsourcing Contract (PSOC) – to outsource functions like schooling improvement, school review, curricula development;

    - Capacity Building Partnership Contract (CBP), wherein the PSP is outsourced training and development of teaching, technical and non-teaching staff of public institutions is quite commonly used;

    - Auxiliary and Support Services Outsourcing Contracts (ASOC) – to outsource activities like canteen, transport, filed visit facilitation, maintenance services, secretarial support, cleaning services, security services, healthcare facilities, gardening/horticulture services; and

- **Infrastructure Provisioning Contract (IPC):** Under this format, PPP, provisioning of educational infrastructure - finance, design, building construction, operation and management of educational infrastructure is outsourced to PSP. Such arrangements are becoming popular form of procurement for large infrastructure projects in the education sector. Under these arrangements a private operator is granted a franchise (concession) to finance, build and operate an educational facility including educational institution, university building, hostel etc. The government, in effect, leases the facility from the private sector for a specified period, after which the facility is transferred to the government. While contractual arrangements differ widely, infrastructure PPPs have the following characteristics:

    - Private sector partners invest in infrastructure and provide related non-core services (e.g. building maintenance);

    - The government retains responsibility for the delivery of core services such as teaching;

- Arrangements between the government and its private sector partner are governed by a long-term contract – usually 25-30 years. Contracts specify the services to be delivered and the standards that must be met;

- Service contracts are often bundled, with the private sector taking on several functions such as design, building, maintenance and employment of non-core staff; and

- Payments under the contract are contingent upon the private operator delivering services to an agreed performance standard. Commonly used models under this format include

    - Leasing and Hire Purchase Contract (LHPC);

    - Design, Build, Finance, Operate (DBFO).

Annexure-III

Examples of PPP Contractual Formats in Operation

Contracting Form	Description	Examples
Management Contracts	Government contracts with private sector to manage an existing public service/set of services using public infrastructure. Staff is employed by the public sector.	▪ Contract Schools, USA
Operational Contracts	Government contracts with a private provider to manage an existing public service/set of services using public infrastructure staff are employed by the private sector.	▪ Contract Schools, USA ▪ Colegios en Concession (Concession Schools), Colombia ▪ Fe y Algeria, Latin America/ Spain
Service delivery contract	Government contracts with the private sector to deliver a specified service/set of services using private infrastructure.	▪ Government Sponsorship of Students in Private Schools. Cote d'Ivoire ▪ Alternative Education, New Zealand ▪ Educational Service Contracting, Philippines.
Auxiliary/professional services contracts	Government Contracts with the private sector to undertake education-related functions such as school review, schooling improvement or curriculum development	▪ Contracting out Local Education Authority functions, UK ▪ Pitagoras Network of Schools, South America ▪ Sabis Network of Schools, Middle East/ Europe/ North America
Infrastructure provision contracts	Government contracts with the private sector for the provision of educational infrastructure. Contracts can involve finance, design, construction and/or operation of educational infrastructure.	▪ Private Finance Initiative, UK ▪ 'New Schools' Project, Australia ▪ PPP for Educational Infrastructure, Canada ▪ JF Oyster Elementary School, United States ▪ Offenbach and Cologne Schools Projects, Germany ▪ Montaigne Lyceum, Netherlands

Annexure IV

Possibilities & Potentials of PPP in HTE

- **PPP in Existing Institutions:** PPP can be effectively and beneficially used for capacity expansion and quality upgradation and efficiency improvement of existing institutions of higher education across core as well as non-core functions.

    - PPP in Core activities: Such PPP contracts would seek to access facilities directly associated with the provisioning of educational services. Facilities in support of core activities can be procured by 'design, build, finance and operate' (DBFO) deals, in which the private sector partner is reimbursed by a regular single charge covering elements of availability, performance and, possibly, usage or demand. Such deals can provide teaching, laboratory, lecture and office space, and also access to facilities such as research equipment. The stress is on paying for access to, and use of, the facilities, rather than acquiring them as an asset: the deal is framed to provide laboratory space, for example, rather than to build laboratories;

    - Non-core activities: Such partnerships seek to transfer provisioning, management and maintenance of support and facilitative infrastructure in institutions of higher education. The PSP invests in such facilities and recover costs through user changes and third party revenue generation. Common examples of these may include: (a) Parking (b) Catering (c) Entertainment (c) sports & leisure (d) commercial services (e) Students hostel (f) staff residence (g) Conference facilities (h) convention centres (i) power backup (j) transport

- **PPP in setting up new Institutions:** In setting up new institutions, PPP can be beneficially used not only for infrastructure provisioning but also in operations and management as well. These may take various possible forms:

    - Government investments in institutional infrastructure and the PSP may assume the responsibility of operations and management such that operating expenses are recovered through user charges;

    - Government invests in infrastructure and the PSP takes the responsibility of operations and management such that operating expenses are recovered partly through user charges with Government paying user charges for certain proportion of students belonging to specified categories;

    - PSP invests in infrastructure and government takes the responsibility of operations and maintenance with provision to make annualised payments to the PSP;

    - Investments in infrastructure is shared between the government and PSP and operations and management vests with the PSP and operating expenses recovered through user charges

Annexure V

Possible Models of PPP in Indian Context

Models	Land	Cap Inv	O&M	Cost Recovery Revenue Sharing
1	State	State	PSP	Fee Income/ User Charges Third Party Revenue State Grants
2	State	State	PSP	Fee Income/ User Charges Third Party Revenue
3	State	Centre	PSP	Fee Income/ User Charges Third Party Revenue State Grant
4	State	Centre	PSP	Fee Income/ User Charges Third Party Revenue Central Grants
5	State	Centre	PSP	Fee Income/ User Charges Third Party Revenue Central & State Grants
6	State	Centre	PSP	Fee Income/ User Charges Third Party Revenue
7	State	Centre State	PSP	Fee Income/ User Charges Third Party Revenue State Grant
8	State	Centre State	PSP	Fee Income / User Charges Third Party Revenue Central Grants
9	State	Centre State	PSP	Fee Income/ User Charges Third Party Revenue State & Central Grants
10	State	Centre State	PSP	Fee Income/ User Charges Third Party Revenue
11	State	Centre State PSP	PSP	Fee Income/ User Charges Third Party Revenue State Grant
12	State	Centre State PSP	PSP	Fee Income/ User Charges Third Party Revenue Central Grants
13	State	Centre State PSP	PSP	Fee Income/ User Charges Third Party Revenue State & Central Grants
14	State	Centre State PSP	PSP	Fee Income/ User Charges Third Party Revenue
15	PSP	PSP	State	Fee Income/ User Charges Third Party Revenue State Grant Annualised Payment by State
16	PSP	PSP	Centre	Fee Income/ User Charges Third Party Revenue

				Central Grant Annualised Payment by Centre
17	PSP	PSP	Centre State	Fee Income/ User Charges Third Party Revenue Grant from Centre & State
18	PSP	PSP	PSP	Fee Income/ User Charges Third Party Revenue Annualised Payment to PSP by State
19	PSP	PSP	PSP	Fee Income/ User Charges Third Party Revenue Annualised Payment by Centre
20	PSP	PSP	PSP	Fee Income/ User Charges Third Party Revenue Annualised Payment Centre & State
21	State	Centre State PSP Banks	PSP	Fee Income/ User Charges Third Party Revenue State Grant
22	State	Centre State PSP Banks	PSP	Fee Income/ User Charges Third Party Revenue Central Grants
23	State	Centre State PSP Banks	PSP	Fee Income/ User Charges Third Party Revenue State & Central Grants
24	State	Centre State PSP Banks	PSP	Fee Income/ User Charges/ Third Party Revenue

Annexure-VI

Major Problem Areas and their Solutions

Aspects	Problem	Solution
The role of government in education development	Education is a public good, hence exclusive reliance on market or community initiatives will not result in social efficiency and equity	Create an enabling environment; Establish an appropriate mechanism to control quality; Develop a systems that can ensure transparency and accountability in service delivery
Access and Affordability	User charges and cost recovery may make higher education inaccessible by masses	Built-in mechanism for sponsorship, scholarship, earn-while-learn, endowments may help.
Linking partnerships with challenges in education	Current partnerships are not clearly linked with resolving the challenges faced by the education sector.	Clarity about the objectives; Sharing of benefits as well as responsibilities; Transparency in terms of who is doing what with whom and with what effect.
Legal and regulatory framework	There is a lack of a well-defined governance structure allowing for a proper distribution of responsibilities to all 'players':	A clear legislative framework specifying the roles of both sectors, their relationship and the areas of cooperation; Definition of the roles of the public sector at the various levels (central – provincial –institutional); Definition of the roles of private 'for profits' and 'private not-for-profit'.
Trust Building	Lack of trust and mechanisms upon which to build such trust.	Set up effective communication channel and have dialogue between the two sides and among all
Accountability	The public sector as the main provider of services is not made rigorously accountable for the quality and equity of its service provision; while the private sector tends to feel responsibility primarily for their organizational goals, be they for profit or otherwise.	Information dissemination with regard to institutional performance Enabling mechanisms for greater involvement of all stakeholder

Annexure 7

Entry and Operational Level Barriers in Existing Regulatory Framework for HTE

Some Examples of Conflicts and Overlaps

- The Central, State and Deemed Universities are conferred with the powers to grant Degrees and to regulate affiliated institutions, where applicable. The University Grants Commission (UGC) is responsible for providing funds and coordination, determination and maintenance of standards in the universities. A Supreme Court ruling, on a petition filed by Bharathidasan University against the AICTE, on 24th September 2001 stated that the Section 10(k) of the AICTE Act does not cover a 'University' but only a 'technical institution', a regulation cannot be framed in such a manner so as to apply the regulation framed in respect of 'technical institution' to apply for Universities, when the Act maintains a complete dichotomy between a 'University' and a 'technical institution'. **This means technical programmes under university systems are not legally bound for approval by AICTE.** On the other hand, autonomous institutions like **IITs and IISc** are also beyond the purview of AICTE. **Thus, the role of AICTE gets further diluted and ambiguous.** Consequently, an attempt to grab power manifests resulting in clash of interests.
- The self-financing technical institutions that are affiliated with the universities are subjected to being regulated by the universities as well as the AICTE, **which is duplicatory, besides being time consuming, resource taxing and, many a time, ending up at being cross-purposes to each other.**
- The organizational structure and functioning of AICTE is in sync with public institutions, which are budgetarily-supported by the State and/or Central Government. The profile of the Council and its Secretariat is mainly dominated by people drawn from the public institutions with negligible representation from other key stakeholders like the leading private sector technical institutions, autonomous technical institutions, Professional Association Bodies and the Industry. Hence, **the Council is unable to address the issues that are specific to self-financing private technical education providers and the changing needs of the industry.** A self-assessment of AICTE in the form of annual reports that are critical of its functioning should have been published by AICTE. One is not aware of any independent review having been carried out, and widely publicized periodically, for the comments of the academic community. **The AICTE appears to be closed and non-transparent in its functioning.**
- The multiple function of AICTE in regulating entry, accreditation, disbursement of public funds, access and license makes the system very confusing and conflicting. Unable to manage multiple functions to the satisfaction of constituents, **AICTE's role has become virtually synonymous with granting approvals or licenses to a new applicant.** The role of quality assurance of existing institutions through issuing guidelines has taken a back seat. **There have also been questions raised on the approval given to many non-deserving institutions.** There have also been cases where institutions recognized abroad for excellence have not been recognized by AICTE *(Note: Refer to recent article by Mr.Gurcharan Das in Times of India about the cases of ISB in Hyderabad and SP Jain Institute in Mumbai)*

- **AICTE is not vested with powers to seal a non-performing or a non-complaint institution**. This is vested in the State Governments. It would appear incongruous for a Body to have "Approval powers" without "Closure powers". **As per Section 10 (k),** *AICTE can grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned* **and as per Section 10 (q)** *withhold or discontinue grants in respect of courses, programmes to such technical institutions which fail to comply with the directions given by the Council within the stipulated period of time and take such other steps as may be necessary for ensuring compliance of the directions of the Council to approve technical programmes.* It can only advise the State government to seal the institution, which may not be complied by the State Government, as often it has come to be observed. And since, constitutionally the "Closure power" remains with the States, it would only be proper for States to be approvers under an enabling Act.

- **The enabling Act of AICTE has got converted to a regulating Act,** which constrains the supply of good institutions, excessively regulates existing institutions in the wrong places and is not conducive to innovation or creativity in higher and technical education. Some major issues are listed below:

  - **Entry norms are restrictive** and relate only to the supply side i.e. infrastructure, faculty and fees with little consideration to the quality of the output. The whole exercise of approval is based on only the infrastructure requirement with virtually no importance to the quality of the product that is being produced by the college concerned. The initial application requires a plethora of annexures as evidence of physical norms being satisfied. This application is first screened, even before AICTE proceeds with the examination of academic merit in the received proposals. **On the other hand UGC presents a model where the academic merit takes precedence over the physical infrastructure.** (Please see the Box)

> Presently the system of approval for establishing a Technical Institution has the following steps:
> - The application can be submitted "any time" round the year. However, the applications complete in all respects received up to 31st December shall be considered for the following academic year. Application received after 31st **December** shall be considered for the next academic year.
> - Two copies of the application shall be submitted to the Regional Office along with a proof of having submitted a copy of the application each to the affiliating University and State Government. One copy of the application shall be directly submitted each to the affiliating University and the State Government either in person or through Speed/Registered Post.
> - Application received shall remain valid for three years from the date of submission.
>
> The complete application form is a paper documentation, which has the following criteria
> - Land requirement
> - Build up area requirement
> - Faculty – student ration as 1:15
> - Fund position of the society as also deposit of FDR.
>
> The renewal of an Institute on an early basis is also based on the Mandatory disclosure, which also has the above facts as the governing factor.
>
> The two criteria for reduction of intake or discontinuation of the approval are as follows:
> - The faculty deficiency in a particular course being more than 25%.
> - The built-up area deficiency being more than 10%.

  - Common format for approval of new institutions, new courses, additional courses and increase in intake of students restricts any kind of innovation.

- **The minimum land requirements and mandating of built-up area does not take into account that land is principally a "State" subject,** that all States do not have "'institutional land zoning" policy and there are variations in Building Bye-laws, such that it is possible to provide more built up area on lesser plot sizes than asked for by AICTE. Also physical norms vary from urban to semi urban & rural and do not match ground reality in terms of cost.

- Ambiguity in Government's policy for regulating the private higher education institutions, leads to delays in permission and other operational difficulties, which deters genuine higher education providers from entering the sector. This has resulted in discrepancies and differential treatment accorded to start-up new institutions. For instance, requirement of 25 acres of land for campuses has made impossible for most institutions to start operations in large cities. However, at the same time there are some Universities who have been granted permission to operate in just a few rooms. There is no forum or mechanism to scrutinize the functioning of AICTE. This has resulted in institutions going to the courts and the accountability of AICTE is in question. There is no level playing field.

- Routine annual inspections of ongoing courses is followed by approval for which the institution concerned is required to pay an amount of Rs. 40,000/- for each course. This in turn is a big financial strain on the Institutions. The UGC, on the other hand, reviews approved colleges once in five years.

- The physical norms, mandated at start, per force lead to massive capital outlays, which automatically creates ground for wealthy entities only to become providers and to run education as business, whereas genuine academics are excluded from being providers, since such capital investment is beyond their reach.

- Common format for approval of new institutions, new courses, additional courses and increase in intake of students restricts any kind of innovation.

- There is no mechanism to differentiate between a performing and non-performing institution as both categories of institutions have to endure long drawn bureaucratic procedures for granting of autonomous status, starting campus outside the state and country and fixing of fees which impacts the entire planning process. This also demotivates the performing institutions. This is also likely to encourage unethical practices to expedite the approvals.

- There have also been instances of AICTE interpreting its own rules arbitrarily. For example, a reputed engineering college was threatened with 'de-recognition' until and unless it stopped running programmes dealing with fundamental sciences like M.Sc in Physics/Electronics/Chemistry/Mathematics, etc., since these courses do not come under the purview of AICTE. **AICTE does not permit conduct of courses dealing with fundamental sciences, which are so essential to advancement of technological knowledge. At the most they could have referred these to the UGC for necessary approvals. Further, it amounts to curtailing the educational vision of any providing institution.**

- Faculty remains under utilized as AICTE norms specify course specific faculty with no concern for pedagogic treatment and its effects on teachers. The subject concerned may require less number of hours of duty than the specified number of teaching days in a year. If the institution utilizes the faculty for teaching other relevant subject, AICTE norms will not accept the faculty in achieving the student faculty ratio of 1:15 for the additional subject. **Moreover, rigid AICTE norms inhibit optimal utilization of resources that are already scarce. Academic flexibility seems to be ignored and not encouraged.**

- **There are no guidelines for granting permissions for Joint Degrees by Indian and Foreign Universities** and requests are declined without any logical explanations, e.g.: tie–up between S P Jain Management Institute & Research, Mumbai and Massachusetts Institute of Technology was not accepted. Putting entry and collaboration barriers for foreign institutions is further stagnating the technical education in the country. If the AICTE's powers, as ruled by the Supreme Court, do not cover Universities, it is inconceivable that it has powers over Foreign Universities. Also a foreign tie-up with an already established and well-accredited institution is treated as a separate set up.

- The well-known and reputed Indian School of Business in Hyderabad (recently ranked as one of the top institutions in the world) is also not recognized by AICTE, although it is fully supported by the State Government with provision of ample land at nil cost.

- Cumbersome processes result in delays to start market driven, job-oriented courses, update and develop curriculum from industry perspective

- **The secretariat's human resources are people without the experience of running private institutions on own funding; are untrained and pedagogically unqualified; lack the maturity to "appraise" the body of people who are proposing, rather then the "application" proposed; are rule-bound rather than purpose-led; and the average age of senior staff or the length of their professional experience is insufficient and unmatched with the talents required to administering regulation of education.**

- The AICTE has no well-informed public process of arriving at policy formulation; its bodies are not representatively constituted and its leadership in recent years has been visionless; indeed, visionaries have had little support from the system, if appointed. This is perhaps the first time, in decades that a Parliamentary committee for MHRD is looking into the functioning of AICTE.

- There is no mechanism to differentiate between a performing and non-performing institutions as both category of institutions have to endure long drawn bureaucratic procedures for granting of autonomous status, starting campus outside the state and country and fixing of fees which impacts the entire planning process. These acts as a demotivator for the institutions to perform.

Annexure 8

Recent Supreme Court Judgements having a bearing on Private Investment/operation of Private Unaided Educational Institutions in Higher Education

- **J.P. Unnikrishnan Vs. State of Andhra (1993):** the judgement upheld that commercialization/charging of capitation fees is illegal and gave a framework for professional colleges – reserve 50% of seats for selected candidates through entrance exam.

- **TMA Pai foundation Vs. State of Karnataka (2002):** Supreme Court judgement said that the previous judgement given in Unnikrishanan case violated the right of private unaided institutes to set their own criteria for admission and, therefore, was unconstitutional. The Court argued that the principle of capitation fee/profiteering is not correct. At the same time, the Court ruled that reasonable surplus to meet the cost of expansion and augmentation of facilities does not amount to profiteering. It reasoned that restrictions on fees and admission imposed in the Unnikrishnan case prevented accumulation of "reasonable surplus".

- **The Islamic Academy Vs. Government of Karnataka (2003):** the Supreme Court clarified the TMA Pai Judgement that 'private institutes are free to fix own fee structures so as to generate funds required to run institutions, benefit students as well as generate surplus for growth of their institutions.

Annexure 9

Actions required for Implementation of PPP

1. **Establish Need:** As a foremost step, we must identify those areas/projects which could be taken up in the PPP mode. As a fundamental principle, the process would require an institution to take a corporate view to reach broad judgement abut the feasibility of the project. In carrying out this examination, the following needs to be considered: (a) Facilities that are needed in the future, specified in terms of outputs and services (b) Scope for transferring some or all of the existing stock of land, buildings and equipment to a commercial partner (c) Scope for transferring non-core activities to a commercial partner, and generating income from these facilities (d) Costs and risks in acquiring and holding land, buildings and equipment (e) What risks should the institution retain, bearing in mind its past record in managing them? How will it manage them?

2. **Decide Procurement Route:** Finding answer to the following critical questions/ deciding factors guide the decision: (a) Can the requirement be expressed in terms of a service? (b) Are there providers other than the institution? (c) If there are, could provision by another supplier offer better or at least equivalent value for money? (d) If so, can the associated risks be managed at lower cost, more effectively and with greater expertise over the lifetime of the facility? (e) If the answer to all these questions is yes, then PFI is relevant and the institution should proceed to a more detailed project appraisal.

3. **Assess Value for Money (VfM):** PPP process exposes the project to the bidder at an early stage and they will have to be convinced that it is viable. It is, therefore, imperative that a detailed project appraisal is done before bids are invited. The following be given due consideration: (a) Cost and benefits associated with the project and the cost should take into account the cost of assets as well as expenses involved in operating those assets whereas the Benefit should include internal as well as external income; (b) Risks involved in the project should not only be clearly identified but it must be clearly decided as to which risks is to be transferred to the PSP and which is to be retained; (c) PPP solution should not cost the institution more than the conventional procurement route. This may be achieved by comparing the Net Present Values of PPP and conventional procurement and the option with lower NPV should be preferred; (d) Affordability – it must be ascertained as to whether the identified project is affordable within projected cash flows over the whole life of the project (e) PPP should not be embarked upon unless there is a realistic chance of success. The project should be so structured as to attract private sector investment (f) Market sounding – soft testing for PFI viability: Before embarking on PPP procurement route, the market should be sounded out to confirm their judgement about the project's potential.

4. **Create Project Team/ Advisers:** Scope of securing value for money and transfer risk will be largely determined by the commercial opportunities in the project and its ability to present these opportunities to prospective bidders. This requires engagement of a competent project team and advisers. The project team does not only market the project but also steers the project to completion and saves a great deal of management time. It also safeguards interest of the government. The

selected project team should be competent to provide supports in such aspects as (a) commercial & financial (b) legal (c) technical

5. **Decide Tactics:** Before initiating the procurement process, strategies, criteria and parameters for short listing the bidders has to be worked out at the pre-qualification stage. The strategy should be so devised that it should foster innovative competition while still giving the bidders sufficient prospect of success to encourage them to compete.

6. **Invite Expressions of Interest (EOI):** This has to follow the tendering process as permissible under the general financial rules. But a detailed Information Memorandum comprising the following aspects increases the success rate: (a) Background to the project; (b) institution, its market and the nature of the opportunity; (c) summary of the institution's requirements, in terms of outputs; (d) details of any existing facilities, and an indication of whether and how they might be used to meet future requirements; (e) summary of the PPP principles as they apply to this opportunity; (f) an indication of the funding sources which the institution will use to pay for the project.

7. **Short Listing:** Besides assessing financial soundness and technical and commercial capability of the bidders, special attention will have to be paid on their understanding of and experience in higher education sector. Bidding PSP should have knowledge and experience of PPP regimes in higher education. Bidders with successful projects undertaken in higher education should be preferred. While doing the short-listing, due consideration has to be given to the following factors: (a) understanding of the PPP, including risk transfer and value for money; (b) capability to meet the timetable and handle the project; (c) approach to design; (d) approach to developing a partnership with the institution's management; (e) understanding of the institution's output specification; (e) ability to provide funding.

8. **Invitation to negotiate (ITN):** Once a short list has been selected, the institution will need to set out a detailed framework within which PSP can make their offers. This is normally done with a formal document known as an invitation to negotiate (ITN). Precise content of ITN would vary considerably from project to project but it should be comprehensive enough to form basis for evaluation and should contain detailed information on: (a) description of the institution, its markets and competitors; (b) a description of the opportunity (c) an output specification (d) an outline contract specification (e) a description of the assessment framework, the performance standards and how these link to the payment mechanism.

9. **<u>Prescribe output specification:</u>** Typically, the output specification should include information on: (a) broad functional content; (b) key service relationships to define how the elements of service delivery interact and which need to be near each other; (c) key design requirements; (d) indicative schedules of equipment (d) the site and any limitations on the building footprint; (e) information technology requirements; (f) student access requirements; (g) service specifications; (h) quality standards. The above will require a project plan setting out key milestones, components, approvals, design, construction, commissioning and occupation. A statement of the timing and value of payments will also be required, against a fully considered development control plan.

10. **Outline contract specification:** Bidders should be provided with an outline of the proposed contractual framework. The contractual framework will need to cover: (a) nature of contracting body; (b) the contractual relationship; (c) length of contract, breaks, triggers and renewal clauses; (d) liabilities of parties to the contract; (e) terms under which facilities and services will be provided; (f) performance standards; (g) the structure, method of operation and funding of the bidder; (h) transfer of assets; (i) break points at which there may be a requirement to market test services; (j) income sharing arrangements; (k) payment arrangements; (l) step-in rights for taking over service provision if PSP gets into difficulties; (m) default and termination provisions in case of failure to deliver to time, failure to perform to specification or achieve performance standards, insolvency, take-over or corporate restructuring (n) Provisions for protecting against non performance of PSP including details of measures such as financial penalties for delay and default in delivery, failure in service quality etc.

11. **Assessment framework:** Detailed framework/ specifications prescribing framework for assessment of bids should ideally provide for (a) how well proposals conform to the tender conditions (b) net present values from investment appraisal of options (c) payment methods (d) planning and design issues (e) services to be managed by the bidder (f) contractual details, issues and structure; (g) qualitative assessment of which proposals best meet the institution's objectives and required performance standards; (h) extent of risk transfer.

12. **Evaluation of bids:** It is important that the evaluation criteria for bids and broad principles guiding the evaluation process be defined in advance and are included in the ITN. The comprehensive evaluation criteria should provide for: (a) a commercial evaluation of the proposed partner; (b) an evaluation of how well the proposal meets the output specification; (c) financial, economic and strategic evaluations of the proposal; (d) an evaluation of the degree to which value for money and transfer of risk are demonstrated; (e) a check on the financial robustness of the bid.

13. **Selection of Bidder:** Since PPP involves medium to long-term relationship with PSP, possibly including the transfer of sensitive services previously provided in-house, it is essential to ensure that the successful bidder can provide the scale and nature of services required. To this end the institution should check the commercial standing of the bidder in more detail than at the pre-qualifying stage. The process should involve (a) undertaking additional due diligence on PSP and their consortium partner members to ensure financial security; (b) testing the ability of the bidder or the bidder's sub-contractor(s) to provide services as specified (c) where bids are conditional on raising finance, seeking independent confirmation that this is likely to be achievable.

14. **Awarding the Contract:** At this stage, focus should be on how various elements of PPP can be transferred into a project agreement. The nature of relationships, performance expectations, service quality expectations and all the details as discussed above need to be carefully translated into agreement.