

Republic of the Philippines
Department of Social Welfare and Development

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**FRAMEWORK FOR PUBLIC-PRIVATE PARTNERSHIPS
IN IMPLEMENTING PROJECTS, FACILITIES AND SERVICES
FOR SOCIAL WELFARE AND DEVELOPMENT**

I. PURPOSE

The State has long recognized the role of the private sector in national growth and development, particularly when it declared the following policy in Republic Act No. 7718 [the Build-Operate-Transfer (BOT) Law]:

It is the declared policy of the State to recognize the indispensable role of the private sector as the main engine for national growth and development and provide the most appropriate incentives to mobilize private resources for the purpose of financing the construction, operation and maintenance of infrastructure and development projects normally financed and undertaken by the Government. Such incentives, aside from financial incentives as provided by law, shall include providing a climate of minimum government regulations and procedures and specific government undertakings in support of the private sector.

While partnerships between the government and the private sector have already been realized in infrastructure and similar projects, they have yet to be applied in the realm of social welfare and development. This framework intends to apply the success of public-private partnerships for projects, facilities and services for social welfare and development.

II. LEGAL BASIS

The Department is mandated to –

1. Care for, protect, and rehabilitate individuals, families and communities that have the least in life and need social welfare assistance and social work intervention to restore their normal functioning and enable them to participate in community affairs [Title XVI Chapter 1 Section 1 of the Administrative Code];

2. Provide a comprehensive program of social welfare services designed to ameliorate the living conditions of distressed Filipinos particularly those who are handicapped by reason of poverty, youth, physical and mental disability, illness and old age or who are victims of natural calamities including assistance to members of the cultural minorities to facilitate their integration into the body politic [Section 2, Republic Act No. 5416];
3. Develop and implement a comprehensive social welfare program consisting of (i) preventive and remedial programs and services for individuals, families and communities; (ii) protective, remedial and developmental welfare services for children and youth; (iii) vocational rehabilitation and related services for the physically handicapped, ex-convict and individuals with special needs; and (iv) training and research and special projects [Section 3, R.A. No. 5416];
4. Adopt policies, plans, programs, and statistics, especially as these relate to family development and poverty groups; advocate for social welfare and development concerns, to include disadvantaged families, children/youth, women, senior citizens, persons with disabilities and similarly situated individuals; and promote, coordinate, establish, operate and maintain support institutional facilities, projects and services and social laboratories and learning centers for the benefit of its constituents and in furtherance of social welfare and development [Executive Order No. 15-1998];
5. Formulate quality assurance measures and standards in the managing and implementing of related social welfare and development programs, offices and facilities; license and accredit social welfare development agencies and service providers; and implement residential care and center-based programs and services serving the whole region and/or more than two provinces or cities, pilot and demonstration social welfare and development projects, and crisis intervention [E.O. No. 221-2003];
6. While recognizing and respecting the local autonomy of local governments, the statutory roles of national government agencies, the specific responsibilities of government entities and public corporations, and the social accountability mandate of civil society, people's and non-profit organizations, enable and collaborate with these institutions in implementing social welfare and development programs, including disaster management through technical assistance, resource generation and augmentation [E.O. No. 221-2003]; and
7. It is the declared policy of the State that all resources of the government shall be managed, expended or utilized in accordance with law and regulations, and safeguarded against loss or wastage through illegal or improper disposition, with a view to ensuring efficiency, economy and effectiveness in the operations of government. The responsibility to take care that such policy

is faithfully adhered to rests directly with the chief or head of the government agency concerned [Section 2, Presidential Decree No. 1445].

In addition, the following laws, issuances, and plans, among others, govern the Department's entry into PPP-SS Projects:

- The Constitution
- The Administrative Code
- Republic Act Nos. 1179, 5416, 6955, 7192, 7227, 7610, 8044, 8504, 8505, 8552, 9165, 9208, 9262, 9344, 9442, 9701, 9710, 9994, 10022, 10165 and 10353
- Presidential Decree No. 603
- Executive Order Nos. 15-1998 and 221-2003
- Administrative Order Nos. 11-2012, 36-1994, 72-2003, 12-2004, 8-2006, 11-2009, 17-2010, 7-2011, 11-2011, 3-2012
- Department Order No. 36-1994
- Philippine Development Plan 2011-2016

III. DEFINITIONS

At a policy and program level, **Public-Private Partnerships for Social Service (PPP-SS)** is an initiative of the Department to implement social services and facilities jointly with the private sector toward realizing inclusive growth and poverty alleviation.

At the specific project level, PPP-SS is an arrangement and undertaking incorporated in a legally enforceable contract among the Department, other government entities, and the private sector, in implementing PPP-SS Projects, requiring the private sector to perform specified functions, make investments, construct, use or operate and maintain facilities, render services, or assume ownership of facilities, assets or corporate entities established by the Department, whereby risks are optimally allocated to, shared with or transferred to, the private sector, in which payments are made in exchange for performance, and, when applicable, tariffs are collected from end-users, for the primary purpose of delivering social services and serving the public good.

IV. GUIDING PRINCIPLES

In implementing the PPP-SS, the Department shall:

1. Free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all [Article II Section 9, Constitution]; promote social justice in all phases of national development [Article II Section 10, Constitution]; value the dignity of every human person and guarantee full respect for human rights [Article II Section 11, Constitution]; protect and strengthen the family as a basic autonomous social institution [Article II Section 12, Constitution]; protect the physical, moral, spiritual, intellectual, and social well-being of the youth [Article II Section 13, Constitution]; and ensure the fundamental equality before the law of women and men [Article II Section 14, Constitution];
2. Recognize the indispensable role of the private sector, encourage private enterprise, and provide incentives to needed investments [Article II Section 20, Constitution]; encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation [Article II Section 23, Constitution]; and respect the local autonomy of local governments [Article II Section 25, Article X Section 2, Constitution];
3. Maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption [Article II Section 27, Constitution]; and implement a policy of full public disclosure of all its transactions involving public interest [Article II Section 28, Constitution];
4. Ensure an enabling policy environment for inclusive growth, poverty reduction, convergence of service delivery, maximized synergies and active multi-stakeholder participation; improve project preparation, development and implementation, coordinating and integrating initiatives in recognition of local government units' key role in infrastructure development; and embrace good governance and the rule of law as requisites for growth and poverty reduction [Social Development, Philippine Development Plan, 2011-2016];
5. Advance public good, general welfare, public trust, and public ethics; and adhere to the core requirements of all government contracts with the private sector, *i.e.*, accountability, transparency, competition, and fairness; and
6. Promote social accountability and meaningful participation from civil society, consumers, end-users, academe in PPP Project conceptualization, preparation of studies, conduct of willingness-and-ability-to-pay surveys, selection of private sector proponents, project implementation, regulation and tariff-setting.

V. PPP VALUE DRIVERS

In implementing specific PPP-SS Projects, the Department shall ensure the presence of, and advance, any or all of the following value drivers:

1. PPPs should provide for more, better, affordable and timely services to communities, targeted beneficiaries and the general public.
2. PPPs should address vital, pressing and urgent or critical social public needs in furtherance of the overall mandate and duty, and social reform agenda of the Department.
3. Under the principle of “*Additionality*”, PPPs should accelerate the implementation of PPP Projects that would immediately facilitate the delivery of basic, social and ancillary services to communities and to the general public.
4. PPPs should avoid financial costs and additional public borrowing, thereby creating fiscal space for other projects of the Department.
5. PPPs should provide mechanisms for a maximum utilization of all properties and facilities, including land and buildings, in a cost-effective and efficient operation of welfare services.
6. PPPs should allow for technology and skills transfer and for improved efficiency and quality of service, and should facilitate output- and performance-based innovations.
7. PPPs should be feasible, affordable, demonstrate the need for the project, and provide value-for-money and good economic value as far as practicable, including optimal allocation of risks to the parties best able to control, manage, mitigate and/or insure these risks.

VI. PPP-SS PROJECTS

PPP-SS Projects shall include, but need not be limited to, the following:

SECTOR OR PROGRAM	PROJECTS AND ACTIVITIES
Alternative Parental Care	<ul style="list-style-type: none"> ▪ child-care services and facilities ▪ community-based service units and facilities ▪ foster-care services and facilities

SECTOR OR PROGRAM	PROJECTS AND ACTIVITIES
Disaster Risk Reduction and Response	<ul style="list-style-type: none"> ▪ evacuation centers and facilities ▪ disaster relief distribution ▪ psycho-social services ▪ donation facilitation ▪ shelter assistance ▪ disaster relief storage facilities/warehouses ▪ logistics/mobility system ▪ ICT/information exchange facilities
Protective Service	<ul style="list-style-type: none"> ▪ vocational centers ▪ centers or facilities for people with disabilities ▪ residential care services and facilities ▪ reception study center for children ▪ centers or havens for children ▪ rehabilitation centers ▪ transitional homes and facilities ▪ centers or havens for women and/or girls ▪ health centers ▪ livelihood centers ▪ sanctuary centers ▪ processing centers for displaced persons ▪ residential facilities ▪ centers for older persons and elderly ▪ rehabilitation centers for youth
Sustainable Livelihood	<ul style="list-style-type: none"> ▪ technical-vocational skills training for employment ▪ dual training system (DTS) for employment ▪ employment opportunities (with allowance or special considerations for indigents) ▪ training on enterprise development, management, and operations (for the specific types of microenterprises) ▪ natural and physical assets (e.g. farm input, land use, materials, tools, equipment, facilities, infrastructure) ▪ financial products and services (e.g. micro-savings, micro-credit, and micro-insurance)

SECTOR OR PROGRAM	PROJECTS AND ACTIVITIES
Social Technology	<ul style="list-style-type: none"> ▪ social laboratories and centers ▪ centers or havens for children ▪ drug education centers and facilities ▪ youth productivity centers ▪ information technology and literacy training centers ▪ violence against women centers and facilities ▪ centers and facilities for persons living with HIV and AIDS ▪ home care centers or facilities for senior citizens ▪ women-friendly space centers or facilities ▪ reintegration services or facilities for deportees ▪ repatriates and returned irregular overseas Filipino workers ▪ counseling services for rehabilitation of perpetrators of domestic violence ▪ services for bereaved mothers and family members ▪ services for victims of involuntary disappearance ▪ family drug abuse prevention programs and services ▪ special drug education centers and facilities
General Administration and Other Support Services	<ul style="list-style-type: none"> ▪ buildings and facilities for support services (i.e. development and/or rehabilitation of office spaces, dormitories, or lodging spaces for employees and stakeholders, among others) ▪ training and capacity-building facilities and services ▪ ICT and information networks/exchange facilities and services ▪ human resource management and personnel administration ▪ research and knowledge management facilities and services ▪ monitoring and evaluation services

To enhance their feasibility, economic viability and bankability, more than one PPP-SS Project enumerated above can be undertaken by the Department, provided that they can be pursued as a single integrated project or activity. The PPP-SC Project(s) may also be implemented together with infrastructure or development projects, as defined under R.A. No. 6957, as amended by R.A. No. 7718, and the 2013 Revised Guidelines and Procedures for Entering into Joint Venture Agreements between Government and Private Entities issued

by the National Economic and Development Authority, or the 2013 JV Guidelines, and other relevant policies, programs and regulations, whereby:

1. The PPP-SS Project(s) and the infrastructure or development project(s) shall constitute one integrated project; or
2. The PPP-SS Project(s) shall either be the primary project(s) or ancillary project(s); or
3. The Department shall be the beneficiary of the proceeds from the infrastructure or development projects implemented by other government entities or agencies.

To achieve the foregoing, the Department, as the public side of the PPP, may pursue PPP-SS Projects on its own or in partnership with other government entities, local governments, public corporations or administrative agencies.

VII. PPP MODALITIES

Whenever relevant and appropriate to achieve the policies and goals set, the Department may adopt any of the following PPP modalities in implementing PPP Projects:

1. **Build-Transfer, Build-Operate-Transfer, Build-Transfer-Operate, Build-Lease-Transfer, Build-Own-Operate, Rehabilitate-Operate-Transfer, Rehabilitate-Own-Operate, Contract-Add-Operate, Develop-Operate-Transfer, and any other mode duly approved by the President under the BOT Law.**

These are contractual agreements between the Department and a private firm targeted towards financing, designing, implementing, building, rehabilitating, developing, leasing, adding and operating, and when appropriate, owning infrastructure facilities and services that were traditionally provided by the public sector, which embodies optimal risk allocation between the parties, minimizing cost while realizing project developmental objectives, and where the project is to be structured in such a way that the private sector gets a reasonable rate of return on its investment.

2. **Joint Ventures.**

Using by analogy the 2013 NEDA JV Guidelines, these are arrangements whereby a private sector entity or a group of private sector entities on one hand, and the Department – either by itself or with other government entities – on the other hand, contribute money/capital, services, assets (including equipment, land, intellectual property or anything of value), or a combination of any or all of the foregoing, to undertake a PPP Project involving a community or pooling of interests in the performance of the investment activity, where each party shall have the right to direct and govern the policies in connection therewith, with the intention to share both profits and risks and losses, subject to agreement by the parties either through a Contractual JV or a JV Company.

3. **Service Contract or Contracting Out Arrangement.**

Pursuant to R.A. No. 9184 [the Government Procurement Reform Act], these are contractual arrangements whereby the private sector proponent or contractor shall provide a particular service to the Department involving the Department's proprietary authority, or to entities or corporations created by the Department, whereby the Department shall be entitled to be paid a fee per unit of work done during the term of the contract.

4. **Management Contract.**

Pursuant to R.A. No. 9184, these are contractual arrangements involving the management or provision by the private sector proponent or management contractor of operation and maintenance or related services to an existing infrastructure or development facility owned or operated by the Department, whereby the private sector proponent may collect tolls/fees/rentals and charges which shall be turned over to the Department, and shall be compensated in the form of a fixed fee and/or performance-based management or service fee during the contract term.

5. **Corporatization.**

This refers to the incorporation or transformation of a public entity or corporation established by the Department into one that has the structure and attributes of a private corporation, such as a board of directors, officers, and shareholders, and registration with the Securities and Exchange Commission as a stock corporation under the Corporation Code, and which sets the role of the Department as owner with clear segregation of the assets, finances, and operations from other the Department operations, and which develops commercial orientation and managerial independence while remaining accountable to the government.

6. **Lease or Affermage.**

These are permitted under the Civil Code as contractual arrangements providing for operation, maintenance, and management services by the private sector proponent or lessee, including working capital and/or improvements to an existing infrastructure or development facility leased by the private sector proponent from the Department for a fixed term; where under a lease, the lessee retains revenue collected from customers and makes a specified lease payment to the Department; and where under an affermage, the parties share revenue from customers, wherein the lessee pays the contracting authority an affermage fee which varies according to demand and customer tariffs, and retains the remaining revenue.

7. **Divestment or Disposition.**

Under Commission on Audit Circular No. 89-296 (January 27, 1989), these refer to the manner or scheme of taking away, depriving, withdrawing of title to a property owned by the Department and vesting ownership thereof to a private owner.

8. **Licensing Arrangement.**

Under E.O. No. 221-2003, the Department licenses and authorizes social welfare development agencies and service providers to finance and construct new facilities and/or rehabilitation of existing facilities including the operation, maintenance, management and improvement, if any, of the facility for a fixed term, during which the private sector proponent generally provides service directly to facility users, and is allowed to charge and collect the approved tolls, fees, tariffs, rentals or charges from them.

9. **Donation.**

Under the Civil Code, particularly an onerous one, is a contract between the Department as donee, and a private person as donor, whereby the latter disposes of a thing or right in favor of the former who accepts it, subject to burdens, obligations, charges and/or services.

10. **Private Sector Participation.**

Under the Civil Code, this refers to an arrangement between the Department and a private sector participant, whereby each party shall provide a specific function and assume certain obligations towards the attainment of a mutually-agreed upon objective.

11. **Usufructuary Agreement.**

Under the Civil Code, usufruct refers to an agreement between the Department and a private entity or participant, whereby the latter is given a right to enjoy the property of the Department with the obligation of preserving its form and substance, unless the title constituting it or the law otherwise provides.

If the usufructuary agreement takes the form of any build-operate-transfer (BOT) variant, i.e., the beneficial use of a DSWD facility and its operation is given to an NGO/private partner, the same should be processed under the BOT Law (R.A. No. 6957, as amended by R.A. No. 7718).

VIII. PPP-SS SELECTION PROCEDURES AND REQUIREMENTS

The manner by which the private sector proponent is selected; the applicable vehicles by which a PPP Project is implemented; and the contributions, approvals, obligations, functions, project term, governance, risk-sharing, and tariff mechanisms, shall be governed by the following:

1. The BOT Law for the variants mentioned under said law;
2. The 2013 NEDA JV Guidelines as regards Joint Ventures;
3. The Government Procurement Reform Act for service and management contracts;
4. The Commission on Audit Circular No. 89-296 for divestment/disposition;
5. The Corporation Code, rules governing Initial Public Offerings, and any appropriate rule on the selection of a private sector proponent which adheres to the core requirements of government contracts, *i.e.*, accountability, transparency, competition and fairness, for corporatization;
6. The Civil Code, any appropriate rule on the selection of a private sector proponent which adheres to the core requirements of government contracts or any means that will yield the most advantage to Government for leases, affermage, licensing agreements, donations and private sector participation;
7. Executive Order No. 301, series of 1987, which governs lease contracts involving government-owned buildings or spaces for private use;
8. Executive Order No. 423, series of 2003, which prescribes the Rules and Procedures on the Review and Approval of all Government Contracts to Conform with Republic Act No. 9184; and

9. Executive Order No. 8, series of 2010, which vests upon the PPP Center the authority to coordinate and monitor “all the PPP programs and projects including all the variants or Arrangements under the BOT Law and Joint-Venture Agreements, among others...”

IX. ACCOUNTABILITY AND TRANSPARENCY

To ensure accountability and transparency, the Department, in advancing the PPP-SS at the program and project levels, shall:

1. Formulate and adopt a Code of Ethics and Accountability to ensure accountability, public trust and ethical considerations in the operationalization of the PPP-SS;
2. Ensure, promote and eliminate all obstacles to social accountability and allow and enhance constructive engagement between citizens’ groups, academe, consumers, rate-payers, general public, government agencies and private sector proponents;
3. Disclose, post and make available to the general public PPP-SS Contracts, feasibility studies, bidding documents, terms of reference, results of the selection process, manuals and other relevant documents and instruments;
4. Design and implement a continuing education and capacity-building program on PPP-SS;
5. Develop an internal monitoring and evaluation mechanism on PPP-SS in order to assess the effectiveness and relevance of the outcomes and results of the Framework and PPP projects entered into by the Department;
6. Encourage as well the civil society organizations, people’s and non-governmental organization and civic aggregations to establish a PPP-SC monitoring, evaluation, and governance audit body functionally and fiscally independent from the Department; and
7. Undertake such other program or activity to enhance and promote accountability, ethics, public trust and public good in PPP-SS.

X. IMPLEMENTATION

Upon approval of the Administrative Order on the Framework for Public-Private Partnerships in Implementing Projects, Facilities, and Services for Social Welfare and Development, a PPP-SS Steering Committee and/or a PPP Technical Working Group composed of representative from all Clusters and concerned offices shall be set-up. The Committee and/or Group shall facilitate PPP initiatives and activities of the Department

including the formulation of a PPP Work Plan. A detailed Terms of Reference outlining the composition, functions, and institutional arrangements of the said Committee and/or Group shall likewise be developed.

XI. EFFECTIVITY

This Administrative Order shall take effect immediately.

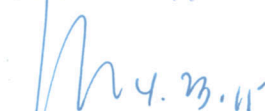
All previous issuances contrary to or inconsistent with this Administrative Order are hereby repealed, modified or amended accordingly.

Let copies of this Order be issued to Central and Field Offices for information and guidance.


CORAZON JULIANO-SOLIMAN
Secretary

PPP-SS AO

Certified Copy:


MYRNA H. REYES
Officer In-Charge
Records