



BAGONG PILIPINAS



PUBLIC-PRIVATE PARTNERSHIP
CENTER



The Philippine PPP Program

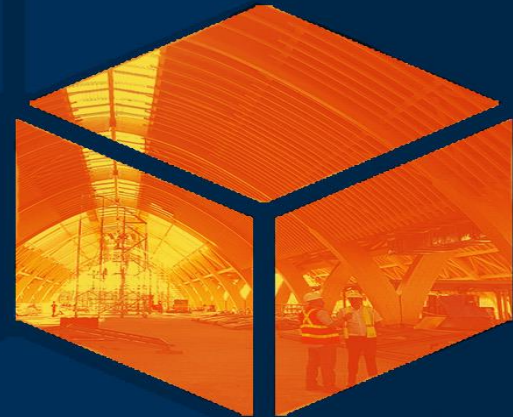
3rd Infra and Energy Talks

Conrad Manila

November 7, 2023

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Deputy Executive Director
PPP Center of the Philippines



PPP Center of the Philippines



The PPP Center facilitates the implementation of the country's PPP Program. It serves as a central coordinating and monitoring agency for all PPP projects.



Advocate for **POLICY** reforms to enhance enabling environment



Conduct **CAPACITY BUILDING** activities to improve skills of agencies



PPP projects



as of October 31, 2023

181

**PROJECTS
UNDER IMPLEMENTATION**

PHP 2,661 Billion
USD 53 Billion

105

**PROJECTS
IN THE PIPELINE**

PHP 2,398 Billion*
USD 48 Billion

	No.	PhP (bn)	USD (bn)
National	121	2,084	42
Local	60	577	11

	No.	PhP (bn)	USD (bn)
National	93	2,285	46
Local	12	113	2

**Total cost does not include projects undergoing studies and with costs that are yet to be finalized*



Projects in the pipeline: expanded look

7

**UNDER
PROCUREMENT**

3

**UNDER
NEGOTIATION**

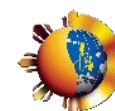
13

**UNDER
APPROVAL**

82

**UNDER
PROJECT PREPARATION**

For more information, you may visit:
<https://ppp.gov.ph/list-of-projects/>



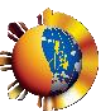
Projects under procurement

Particulars	
Implementing agency	UP-PGH
Project description	<ul style="list-style-type: none"> • 300-bed cancer hospital (150 sponsored; 150 self-paying) • Provision of comprehensive inpatient and outpatient cancer treatment, including radio-oncology, imaging and radiology (X-ray, USG, CT scan, MRI), medical oncology (chemotherapy), surgical oncology • 30-year Build-Transfer-Operate (BTO) PPP concession <ul style="list-style-type: none"> ✓ Design, finance, construct, and commission a new standalone hospital building to be located within UP-PGH’s Metro Manila campus ✓ Provide all major equipment (initial and replacement) ✓ Undertake maintenance, facilities management as well as non-clinical services (including cleaning, catering, laundry, and security) to the entire hospital ✓ Provide all clinical services to private self-paying patients in a dedicated 150-bed area • Repayment scheme: availability payment, revenues from clinical services from self-paying patients, commercial activities (parking, F&B, retail, etc.) • The winning bidder will be competitively selected based on the lowest required Annual Payment.
Procurement mode	Solicited
PPP structure	Build-Transfer-Operate (BTO)
Cooperation period	30 years
Deadline for bid submission	2024

UNIVERSITY OF THE PHILIPPINES – PHILIPPINE GENERAL HOSPITAL (UP-PGH) CANCER CENTER PPP PROJECT



For more information, you may visit:
<https://bit.ly/UPPGHCancerCenter>
<https://bit.ly/UPPGHInfoMem>



Projects under procurement

Particulars	
Implementing agency	Department of Transportation and Manila International Airport Authority
Project description	<p>NAIA represents a unique opportunity for an airport developer to operate one of the primary airports in the region. There is a significant potential for the Concessionaire to tap into the unrealized potential of NAIA by:</p> <ul style="list-style-type: none">• Optimizing and improving performance - increase runway capacity to annual peak hourly rate of 48 ATMs;• Enhancing the capacity of the airport - increase the capacity up to 62 million passengers per annum;• Developing commercial potential - the Concessionaire, will be allowed to undertake commercial development which are expected to expand non-aeronautical revenue base
Procurement mode	Solicited
PPP structure	Rehabilitate-Operate-Expand-and-Transfer (ROET)
Cooperation period	15 years (+10 years if no contract breaches)
Deadline for bid submission	December 27, 2023

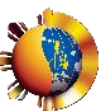
NINOY AQUINO INTERNATIONAL AIRPORT (NAIA) PPP PROJECT



For more information, you may visit:

<https://bit.ly/NAIA-PPP>

<https://bit.ly/NAIA-PPPInfoMem>



Upcoming rollout of other PPP projects



Dialysis Center PPP Project for the Renal Center Facility of the Baguio General Hospital & Medical Center (BGHMC)

Contractual arrangement:
Build-Operate-Transfer (BOT)

Repayment scheme:
Revenue share per hemodialysis session,
depending on the winning bid

Concession period:
16 years (inclusive of 1 year construction
period)

Indicative bid submission timeline:
July – August 2024

(Solicited; approved by the NEDA Board)

Tarlac-Pangasinan-La Union Expressway (TPLEX) Extension Project

Contractual arrangement:
Build-Operate-Transfer (BOT)

Indicative bid submission/challenge
timeline:
March 2024

*(Unsolicited; for 2nd NEDA Board approval to
commence Swiss Challenge)*

Upgrade, Expansion, Operations, and Maintenance of Laguindingan Airport Project

Contractual arrangement:
Operate-Add-Transfer (OAT)

Indicative bid submission/challenge
timeline:
January – March 2024

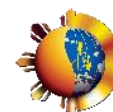
(Unsolicited; under negotiation)

New Bohol International Airport Project

Contractual arrangement:
Operate-Add-Transfer (OAT)

Indicative bid submission/challenge
timeline:
April 2024

(Unsolicited; under negotiation)



Bidding process under the Revised 2022 IRR of the BOT Law

Solicited Track (indicative timeline: 4.8 months)

1. Invitation to pre-qualify and bid
2. Pre-qualification of proponents*
3. Bidding (issuance of tender docs & conduct of pre-bid conference)
4. Bid submission and opening
5. Evaluation of technical proposal
6. Evaluation of financial proposal
7. Issuance of the Notice of Award
8. Compliance with post-award requirements
9. Contract signing

The Implementing Agency may opt for a **single-stage bidding where the pre-qualification documents shall form part of the bid submission as a separate envelope and opened before the technical and financial proposals.*

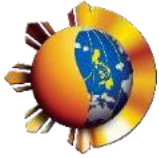
Unsolicited Track (indicative timeline: 8.93 months**)

1. Invitation for comparative proposals*** - 60 working days
2. Submission and opening of comparative proposal
3. Evaluation of the eligibility requirements of the challenger
4. Evaluation of the technical proposal of the challenger
5. Evaluation of the financial proposal of the challenger
6. Right to match of the Original Proponent – 30 working days
7. Issuance of the Notice of Award
8. Compliance with post-award requirements
9. Contract signing

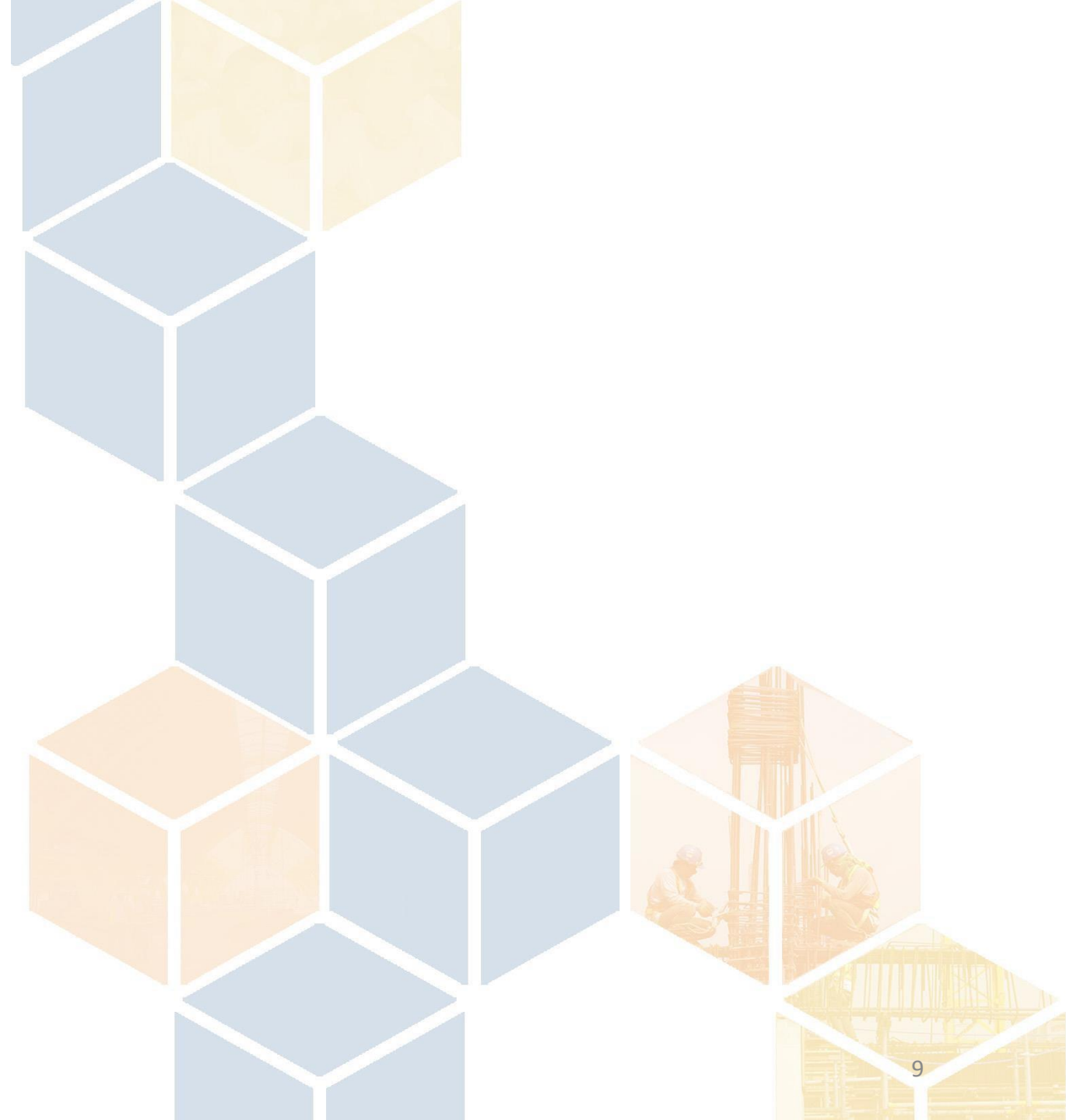
***Assuming there is a comparative proposal received.*

****If no comparative proposals are received by the end of the period for invitation, the project shall be awarded to the Original Proponent.*





Salient reforms under the PPP Code of the Philippines



Status of the PPP Code in the 19th Congress



Both the Senate and the House of Representatives ratified the Bicameral Conference Committee Report on the reconciliation of disagreeing provisions of House Bill No. 6527 and Senate Bill No. 2233

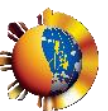
**27 September
2023**

**25 September
2023**

Senate approved SB No. 2233 on third and final reading



Issuance of the PPP Code Implementing Rules and Regulations
**within 90 days from
effectivity of the PPP Code**



(1) Coverage

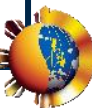
PPP Code unifies fragmented legal frameworks on PPP.

Status quo

- BOT Law
- NEDA JV Guidelines
- Local PPP Code or JV Ordinances
- Special charters of SUCs, GOCCs, GCEs, GICPs, GFIs, and WDs

PPP Code

- a. ALL contractual arrangements **between IA and Private Partner to finance, design, construct, operate, and maintain, or any combination or variation thereof**, infrastructure or development projects and services, which are **typically provided for by the public sector**, where each party **shares in the associated risks**
- b. Joint Ventures (**JVs**) as defined in the Code
- c. Toll operation agreements (**TOAs**)
- d. **Lease agreements** providing for the rehabilitation, operation, and/or maintenance, **including the provision of working capital and/or improvements to**, by the Private Partner of an existing land or facility owned by the government **for a period of time covering more than 1 year**
- e. **Lease agreements** when such lease is a **component of a PPP project**



(2) Approval of PPP projects

Status quo

Approval process depends on legal framework used

(e.g., BOT Law, NEDA JV Guidelines, Local PPP Code or JV Ordinances, Special charters of SUCs, GOCCs, GCEs, GICPs, GFIs, and WDs)

PPP Code

National PPP Projects

- Increased threshold while preserving national government oversight on PPP Projects
- ICC may review, evaluate, and update the threshold amounts
- Water Districts are considered National PPP Projects

Local PPP Projects

- Uphold local autonomy in project approval while providing mechanisms to ensure harmonized investment programming between LGUs and the national government



(2) Approval of National PPP projects

Approving Body	Amount threshold
NEDA Board <i>upon recommendation of ICC</i>	Projects costing Php 15 billion and above
Head of IA or Board, whichever is applicable	Projects costing below Php 15 billion
ICC	Projects costing below Php 15 billion, but: <ol style="list-style-type: none"> 1. <u>physically overlaps</u> with a project approved by a government authority or with a project being developed by another government entity based on national or sectoral development plans 2. <u>negatively affects the economic benefits, demand, and/or financial viability</u> of a project approved by a government authority or a project being developed by another government entity based on national or sectoral development plans 3. requires <u>financial government undertakings</u> to be sourced and funded under the General Appropriations Act (GAA) 4. involves <u>Availability Payments</u> to be sourced and funded under the GAA 5. The contribution of an IA in a proposed JV <u>exceeds 50% of its entire assets</u> based on its latest audited financial statements and other pertinent documents, and subject to Subsidy as defined in the Code

PPP projects shall be approved within 120 calendar days from receipt of complete requirements. Failure to render a decision within the required period shall be deemed an approval of the PPP project.



(2) Approval of Local PPP projects

- **Approving body of Local PPP Projects** *(upon endorsement of the local development council concerned)*:
 - a. LGU projects – local Sanggunians, regardless of Project cost
 - b. LUC projects – respective Boards, regardless of Project cost
- **Other applicable clearances:**
 - a. If the local PPP project has proposed **Government Undertakings (GUs) using national government funds** – ICC to approve requested GUs within **60 calendar days from receipt of complete requirements** and **upon review and endorsement by respective RDC/s**
 - b. If the local PPP project **affects national or sectoral development plans** – endorsement by respective **RDC/s**

- PPP projects shall be approved **within 120 calendar days from receipt of complete requirements**. **Failure to render a decision** within the required period **shall be deemed an approval** of the PPP project.
- Endorsements of the LDCs and the RDCs shall be issued **within 30 calendar days from receipt of complete requirements**. **Failure to render a decision** within the required period **shall be deemed an approval** of the requested endorsement.
- The NEDA shall provide the RDCs and the PPP Center copies of all relevant national and sectoral development plans.



(3) Tariff regulation

The PPP Code establishes a predictable tariff regime that safeguards public interest.

All regulatory bodies charged with approval of initial tolls, fares, fees, rentals, and other charges and adjustments thereof **shall**:

1. Publish **guidelines and frameworks** for tariff rate consultations, review, and approval **within 180 calendar days after the effectivity of the IRR**, with provisions mandating that **regulatory approvals be made prior to the approval of a PPP Project**.
2. **Approve the initial tolls, fares, fees, rentals, and other charges and adjustments thereof**, based on service quality, KPIs, the principles of fairness, transparency, predictability, and protection of public interest while providing for a Reasonable Rate of Return on capital or investment by the Private Partner, and other stipulations in the PPP contract.
3. **Uphold the approved tariff rates and adjustments thereof** during project implementation.
4. In the absence of an appropriate regulatory body, initial tariff rates shall be **as stipulated in the contract**.
5. IAs of Local PPP projects may opt to establish a **local rate setting body**, subject to approval by the local Sanggunian.



(4) Unsolicited Proposals

General rules

- IA shall have the right to **reject the unsolicited proposal upon receipt** if:
 - a. such proposal is deemed not aligned with the development plans of the IA, or
 - b. if the IA is already developing a project with similar scope and/or similar objective
- Clearer rules on **prohibited Government Undertakings***
- **Allowed for projects in the List of PPP Projects, subject to Private Proponent's reimbursement** of the government's documented development costs for the last 3 years from submission of unsolicited proposal; **not exceeding 6% of the Project Cost** excluding the cost of ROW acquisition
- Any change in the composition of the Original Proponent that will affect its majority ownership **shall be strictly prohibited**.

*An Unsolicited Proposal shall not contain any of the following Government Undertakings:

- I. VGF and other forms of Subsidy
 - II. Payment of ROW-related costs
 - III. Performance undertaking
 - IV. Additional exemptions from any tax other than those provided for by law
 - V. Guarantee on Demand
 - VI. Guarantee on Loan Repayment
 - VII. Guarantee on Private Sector Return
 - VIII. Government equity
 - IX. Contribution of assets, properties, and rights
- II and IX may be allowed if the government receives compensation
 - VIII and IX may be allowed for JV arrangements



(4) Unsolicited Proposals

Process reforms

- **Completeness check**
 - To be conducted by the PPP Center **within 10 calendar days from receipt of the unsolicited proposal**, together with determination of appropriate Approving Body
- **Treatment of more than one unsolicited proposal for the similar project**
 - In case there are similar proposals, IA may, **within 90 calendar days from receipt of endorsed complete unsolicited proposal**:
 - a. determine the most advantageous proposal and accept the proposal; other proponents that were not selected may submit comparative proposals during the comparative challenge period
 - b. reject all similar proposals
- **Negotiation**
 - Conducted after acceptance of unsolicited proposal within a **period not more than 150 calendar days**; successful negotiation results to grant of OPS
- **Validity of OPS**
 - Period **not exceeding one (1) year from conferment**
- **Comparative challenge**
 - **Not less than 90 days and not exceeding 1 year**, as proposed by the IA and approved by the appropriate Approving Body
 - Right-to-match mechanism **(30 calendar days)**



(5) Strengthened PPP institutional mechanisms

The PPP Code strengthens enabling institutions for PPPs.

1. **PPP Center** – institutionalized with additional powers and functions in order to work towards a more efficient and effective performance of its mandate
2. **PPP Governing Board** – provision of additional members of the Board: PPP Center, DILG, DENR, and CHED
3. **Project Development and Monitoring Facility** – expansion on the use of PDMF for other critical services
4. **PPP Risk Management Fund (RMF)** – created the facility for the payment of contingent liabilities arising from PPPs; to be funded from (1) general appropriations, (2) income from existing PPP projects, and (3) other sources as may be determined by the Development Budget Coordination Committee (DBCC);

institutionalization of the Inter-Agency Technical Working Group on Contingent Liabilities under the DBCC;

for local PPP projects: (1) LGUs may access the PPP RMF of the national government subject to payment of contributions, or (2) LGUs may establish a similar fund subject to PPP Governing Board guidelines



(6) Other reforms

1. Mandatory inclusion of dispute avoidance and ADR mechanisms in PPP contracts
2. Adoption of contract management and risk mitigation plans in PPP projects
3. Mandatory inclusion on wind-up and transfer measures in PPP contracts
4. Mandatory procurement of independent consultants
5. Alternative sources of financing including Green Financing
6. Adoption of land value capture strategies in PPP project design
7. Mandatory disclosure of tender documents and PPP contracts
8. Allowable investment recovery schemes





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