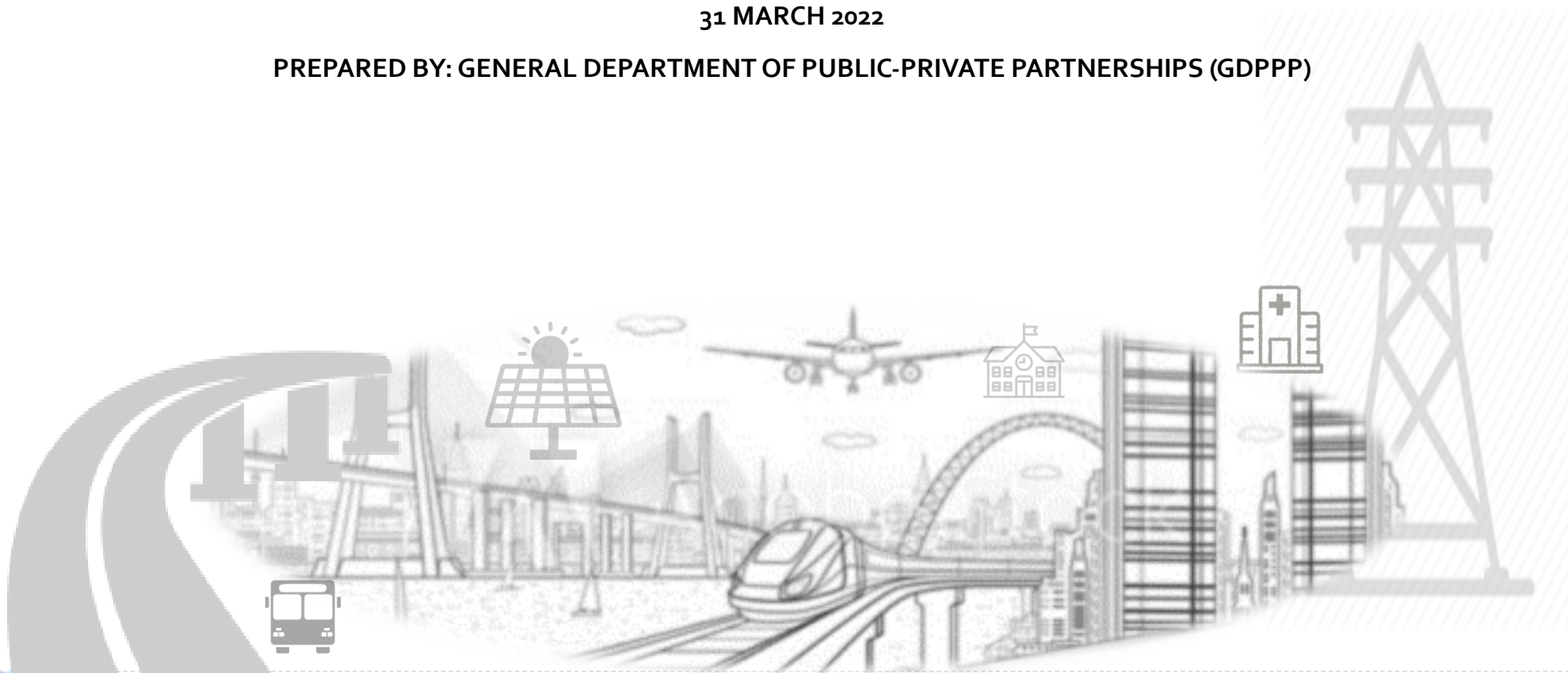


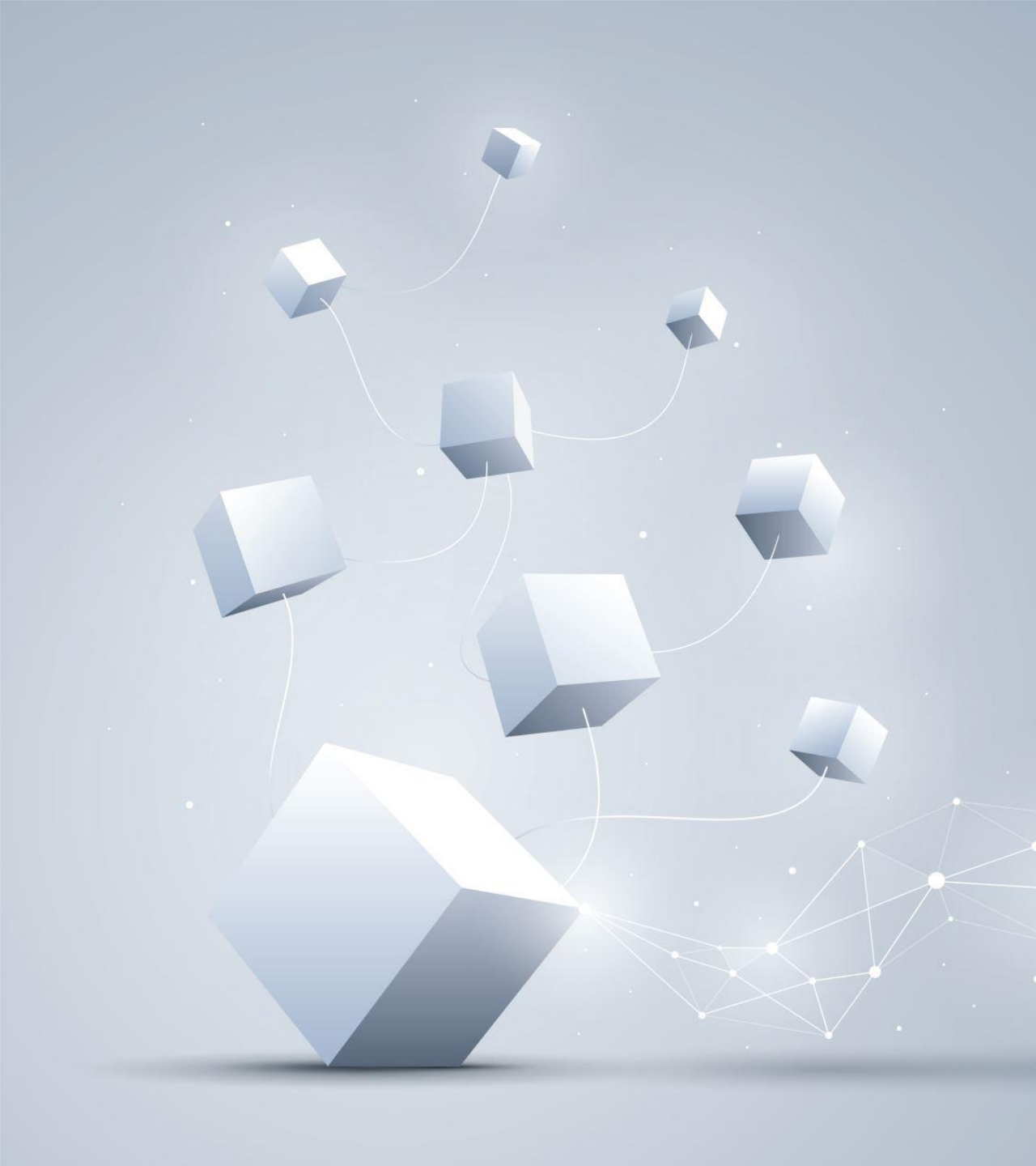
# MANAGEMENT FRAMEWORK FOR PPP PROJECTS IN CAMBODIA

\* \* \* \* \*

31 MARCH 2022

PREPARED BY: GENERAL DEPARTMENT OF PUBLIC-PRIVATE PARTNERSHIPS (GDPPP)





# CONTENTS

- ❑ INTRODUCTION
- ❑ KEY FEATURES OF PPP PROJECTS
- ❑ SOME PROVISIONS OF THE LAW ON PPP
- ❑ DRAFT STANDARD OPERATING PROCEDURES (SOPS)

# INTRODUCTION

Since 1990s, Concession projects/PPP projects in the energy and aviation sectors implemented via the ad-hoc mechanism

In the transition period, the ad-hoc mechanism has been used to develop and management concession projects/PPP projects in Cambodia

In late 2019, the RGC also approved the **Public Investment Management System Reform Strategy 2019-2025** with the vision to establish an integrated national public investment management system

In 2007, the Law on Concession was approved and promulgated with the absence of Standard Operating Procedures (SOP) for project management

In 2016, the RGC approved the **Policy Paper on PPPs for Public Investment Management 2016-2020**, and implemented key measures as stipulated in the policy including the review of the Law on Concession and the formulation of the Law on PPPs and its SOPs

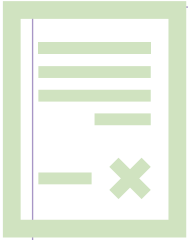
In 2021, ***the Law on PPPs*** was promulgated by the Royal Kram NS/RKM/1121/018 to replace the 2007 Law on Concession



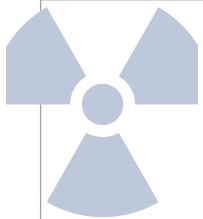
## DEFINITION OF PUBLIC-PRIVATE PARTNERSHIPS (PPP)

Public-Private Partnerships (PPPs) refers to the agreement between the State and the Private Partner to restore, repair, expand, build, operate and/or maintain public infrastructure or Project Asset(s) or to provide public services within a specified period. Under this agreement, the Private Partner shall invest, bear part of the risks, and receive benefits based on performance in accordance with terms and conditions stipulated in the PPP Contract.

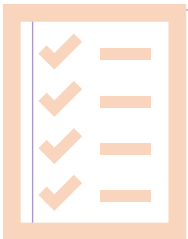
# SOME KEY FEATURES OF PPP PROJECTS



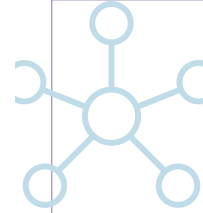
**Long-term Agreement/Contract** between the State and the Private Partner



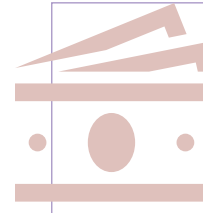
**The risk allocation** between the State and Private Partner as stipulated in the PPP Contract



**Benefits/remuneration** based on performance in accordance with terms and conditions stipulated in the PPP Contract



Requires the private party to make an investment (can be for the new or existing assets) that may include the **costs of project development, design, financing, construction, operation and maintenance**



Partial or full **financing** of the total project cost normally mobilized and provided by **the Private Partner**



Other key features include: the formation of the Special Purpose Company (SPC), the financing for the project through the "**Project Finance**", remuneration for the private partner is normally paid when the project asset has been **built and can be operated**, focused on the **output specifications** rather than the input specifications.

# PPP LAW PROMULGATED BY THE ROYAL KRAM ON 18 NOVEMBER 2021

...to promote the management of the Public-Private Partnerships (PPP) mechanism for the preparation and development of public infrastructure and public service projects in an efficient, effective, sustainable, transparent, accountable, and fair manner for the greater benefit of socio-economic development in the Kingdom of Cambodia.



ROYAL KRAM

NS/RKM/1121/018

WE,

**PREAHKARUNA PREAHBATH SAMDECH PREAH BOROMNEATH NORODOM  
SIHAMONI SAMANPHOUM CHEATSASNA RAKHATKHATEYA  
KHEMERAROTHREAS PUTHINTHREA THOREAMOHAKSAT KHEMREACHNEA  
SAMOHORPHEAS KAMPUCH EKREACHROATHBORANAKSANTEH  
SOPHEAKMONGKULEA SEREYVIBOLAR KHEMARASREYPIREAS PREAH  
CHAO KRONG KAMPUCHEA THIPADEY,**

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Kram NS/RKT/0918/925, dated 6 September 2018, on the Appointment of the Royal Government of Cambodia;
- Having seen the Royal Kram NS/RKT/0320/421, dated 30 March 2020, on the Appointment and Revision of the Composition of the Royal Government of Cambodia;
- Having seen the Royal Kram NS/RKM/0618/012, dated 28 June 2018, promulgating the Law on Organization and Functioning of the Council of Ministers;
- Having seen the Royal Kram NS/RKM/0196/18, dated 24 January 1996, promulgating the Law on the Establishment of the Ministry of Economy and Finance; and
- Having seen the Request from Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister of the Kingdom of Cambodia

**HEREBY PROMULGATES**

The **Law on Public-Private Partnerships** adopted by the National Assembly on 25 October 2021 at its 6<sup>th</sup> plenary session of the 6<sup>th</sup> mandate, entirely approved by the Senate on its form and legal concepts on 2 November 2021 at its extraordinary session of the 4<sup>th</sup> mandate, and which has its full substance as follows:

1/23

## THE LAW ON PPPS HAS:

- ✓ 14 CHAPTERS
- ✓ 49 ARTICLES
- ✓ 2 ANNEXES.

CHAPTER I GENERAL PROVISIONS

CHAPTER II COMPETENT INSTITUTIONS

CHAPTER III RIGHTS TO ENTER INTO PPP CONTRACT AND ELIGIBILITY OF PPP PROJECTS

CHAPTER IV PPP PROJECT CYCLE

CHAPTER V FINANCIAL SUPPORT MECHANISMS

CHAPTER VI SELECTION OF PRIVATE PARTNER

CHAPTER VII PPP CONTRACT

CHAPTER VIII INVESTMENT INCENTIVES FOR PPP PROJECTS

CHAPTER IX PROJECT IMPLEMENTATION AND MONITORING

CHAPTER X CONTRACT PERIOD, TERMINATION AND HANDBACK

CHAPTER XI DISPUTE RESOLUTION

CHAPTER XII PENALTIES

CHAPTER XIII TRANSITIONAL PROVISIONS

CHAPTER XIV FINAL PROVISIONS

ANNEX I GLOSSARY

ANNEX II COMMON PPP MODELS

# MINISTRY OF ECONOMY AND FINANCE AND ITS GENERAL DEPARTMENT OF PPP

- The MEF acts as the lead institution for managing PPP projects in all phases of the project cycle and countersigns the PPP Contract with the IA and Private Partner.
- It exercises the key due diligence and approval role across the PPP project cycle from the selection of the PPP project until the PPP Contract is approved by the Government.
- In addition, it is specifically responsible for the review and approval of any fiscal commitments under the Government Support Mechanism (GSM) provided to the PPP projects.
- The General Department of PPP (GDPPP) in the MEF is the central agency responsible for coordination and management of PPP projects and plays the key due diligence and facilitation role in the PPP project cycle, from project identification to the implementation and monitoring of the PPP Contract and until hand back of the PPP project to the IA.







## IMPLEMENTING AGENCIES

- The Implementing Agencies (IAs) including any line ministries, equivalent public entities, public administration establishments, public enterprises and sub-national administration, are the project owners.
- They bear the main responsibility for the identification, preparation, procurement, implementation and monitoring of PPP projects.
- The IAs are empowered/authorized to sign the PPP Contract with the Private Partner, as the representative of the Government



## CRITERIA FOR THE IDENTIFICATION AND SELECTION OF ELIGIBLE PPP PROJECTS AS PRESCRIBED IN THE PPP LAW



The development and implementation of the project shall fall within the responsibility and purview of the Implementing Agency;



The objective of the project is for the development of public infrastructure and/or provision of public services within an Eligible Sector;



The project is capable of risk allocation between the State and Private Partner to ensure benefits based on the principle of Value for Money (VfM);



The project has the potential to attract resources from the private sector as the basis for the rationalization of the public expenditure for project development; and



The project shall have an operational period of at least 5 (five) years and is capable of providing stable and sustainable services to users, for the entirety of its lifespan under the framework of the PPP Contract.



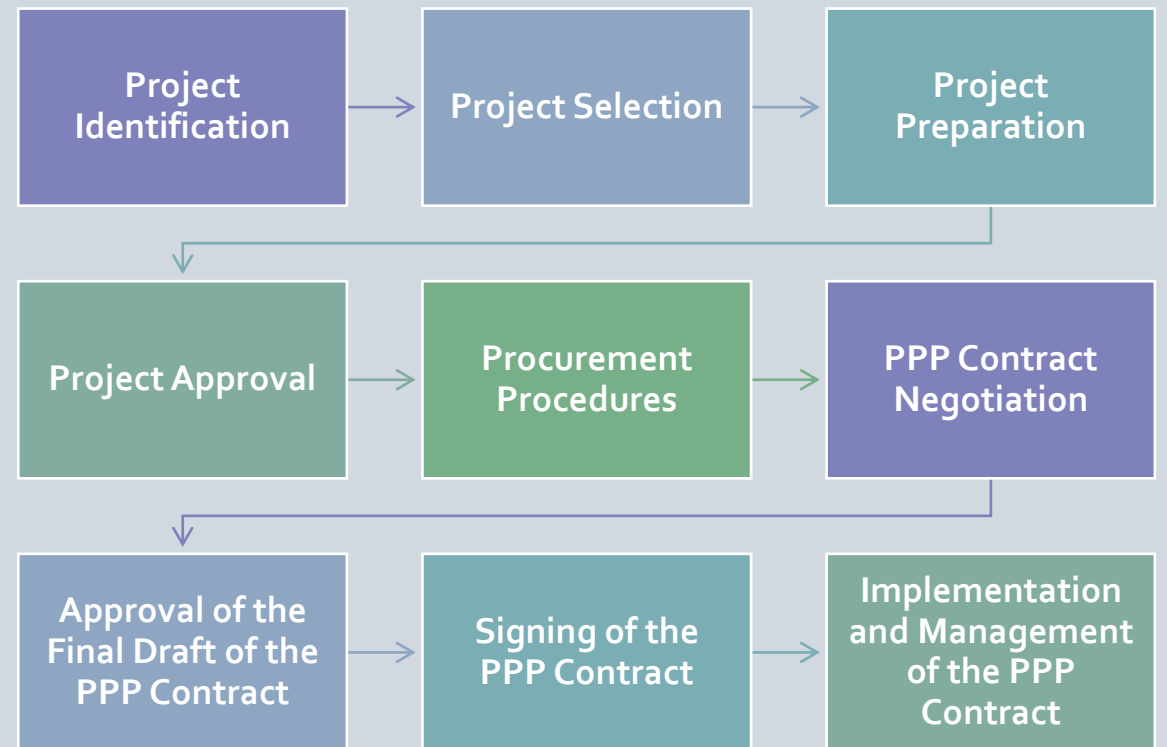
## GENERAL PPP MODELS

### PERMITTED UNDER THE PPP LAW

- ✓ Build-Operate-Transfer “BOT”
- ✓ Build-Own-Operate-Transfer “BOOT”
- ✓ Build-Own-Operate “BOO”
- ✓ Management Agreement/Operation and Maintenance Agreement (O&M)
- ✓ Design-Build-Finance-Maintain-Operate “DBFMO”
- ✓ Design-Build-Lease “DBL”
- ✓ Other PPP Models



# PROJECT CYCLE FOR THE SOLICITED PPP PROJECT



## UNSOLICITED PROPOSALS(USP) CONSIDERED BY IA TO BE DEVELOPED AND IMPLEMENTED AS A PPP PROJECT

1. The Unsolicited Proposal shall introduce new concept, technology or innovation that may be beneficial to the Kingdom of Cambodia. In case the Implementing Agency seeks to further pursue the preparation and development of any Unsolicited Proposals, the Implementing Agency shall submit a request for in-principle approval from the Royal Government through the Ministry of Economy and Finance.
2. Following the in-principle approval from the Royal Government, the Implementing Agency shall lead the Royal Government's working group in preparing a framework agreement or an equivalent agreement to prescribe the cooperation between the State and the Private Proponent for the project study and project development. All expenses and risks associated with the project study and project development shall be borne by the Private Proponent.
3. The Implementing Agency and the Ministry of Economy and Finance may arrange for an independent agency to conduct due diligence or evaluate the findings of the Feasibility Study of the Unsolicited Proposal.
4. Based on the due diligence of the Feasibility Study, the Implementing Agency and the Ministry of Economy and Finance may request for the approval from the Royal Government for the selection of the Private Partner through the competitive bidding methodology or through the direct negotiation/selection methodology.
5. The Ministry of Economy and Finance may decide to utilize funds from the PDF for undertaking the due diligence of the Feasibility Study on the commercial and financial aspects for the negotiation on terms and conditions of the draft PPP Contract, and for undertaking other relevant tasks.



Composition of  
the draft SOP for  
PPP - Divided into  
3 Volumes

### SOP for PPP, Volume I: Policies and Procedures

- Prescribe the policies and procedures to manage the PPP Project for its entire cycle

### SOP for PPP, Volume II: Guidelines

- 1-Project Identification and Selection Guidelines
- 2-Project Development Facility (PDF) Guidelines
- 3-Feasibility Studies (FS) Guidelines
- 4-Financial Analysis Guidelines
- 5-Value for Money Analysis (VfM) Guidelines
- 6-Government Support Measures (GSM) Guidelines
- 7-Risk Management and Fiscal Commitments Guidelines
- 8-Contract Management Guidelines

### SOP for PPP, Volume III: Procurement Manual

#### 1-Selection of Consultants

- Transaction Advisors (TA)
- Owner's Engineer/Contract Engineer
- Independent Consultant/Engineer
- Other consultants/advisors

#### 2-Selection of Private Partner



THANK YOU!

