ZAMFARA STATE GOVERNMENT OF NIGERIA

PUBLIC PRIVATE PARTNERSHIPS POLICY

ZAMFARA INVESTMENT PROMOTION AGENCY

DECEMBER, 2023

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ACRONYMS AND GLOSSARY OF TERMS

BOO	Build Own Operate
BOT	Build Operate and Transfer
EoDB	Ease of Doing Business
EOI	Expression of Interest
ExCo	Executive Council
FBC	Full Business Case
FDI	Foreign Direct Investment
ZIPA	Zamfara Investment Promotion Agency
ZMSG	Zamfara State Government
MDA	Ministry, Department and Agencies
MoF	Ministry of Finance
MTEF	Medium Term Expenditure Framework
OBC	Outline Business Case
PPP	Public Private Partnership
RFP	Request for Proposal
SDP	State Development Plan
SIP	Sector Implementation Plan
SPV	Special Vehicle Funding
VfM	Value for Money
VGF	Viability Gap Funding

1. INTRODUCTION

(1) THE NEED FOR PRIVATE SECTOR INVESTMENT

(a) The backbone for the economic and social development of any state is in its physical infrastructure. Infrastructural projects are highly capital intensive in nature and exert a strain on public finances. States in Nigeria have limited resources at their disposal to finance infrastructure. As a result, public sector authorities are constantly on the lookout for alternative sources of funds, and one such source is investment by the private sector through Public Private Partnerships (PPPs). The Zamfara State Government (ZMSG) intends to adopt a policy that embraces the delivery of infrastructure projects and services in the public sector through PPPs. This Policy Statement sets out the framework for using PPPs in Zamfara State. The sectors where PPP will be applied in the state as they relate to the Zamfara State Development Plan and relevant Sector Implementation Plans (SIPs) include transportation, power, water, environment, health, education, youth, agriculture, housing, tourism and any other related sector.

(b) ZMSG is aware that there is a strong and healthy competition for Foreign Direct Investment (FDI) across the country and there is a need for Zamfara State to maintain its proactive approach to attract investors for its large-scale infrastructure projects, as well as investors for other sectors of its economy. In its overall plan to engage the private sector to develop infrastructure through PPPs, the Government is seeking to create an enabling environment that will make Zamfara an attractive place for investors. ZMSG is also aware that securing inward investments is only the first step, and it needs to ensure sustainability by making the public sector more responsive and efficient in meeting the opportunity. Therefore, creating the enabling environment and appropriate legal and regulatory framework is one of the main thrusts of this policy.

(2) REASONS FOR USING PUBLIC PRIVATE PARTNERSHIPS

(a) ZMSG acknowledges that the use of PPP fosters economic growth by developing new commercial opportunities and increasing competition in the provision of public services, thereby encouraging private investment. It also results in the development of the local financial equity and debt markets. At the same time, it allows Government to set policy and strategy, and where appropriate, to regulate economic activities, while leaving service delivery to the private sector. PPPs can help create a more competitive and diverse supplier market, can help to improve the efficiency of public services, and can thereby reduce costs in public service delivery. It will harness the resources of both public and private sectors to secure the best outcomes and better value for money. Operationally, PPP provides opportunities for efficiency gains, better asset utilisation and quality, clearer customer focus and accelerated delivery of projects. ZMSG intends to focus on its core public service role and give the private sector a greater operational role.

(b) PPPs can draw upon the best available skills, knowledge and resources, whether they are in the public or private sector. PPPs will allow Ministries, Departments and Agencies (MDAs) to focus their efforts on the delivery of core services, and use the savings generated to improve or expand other services. PPPs also have the potential to bring forward infrastructure expenditure, instead of phasing capital development over a number of years because of budgetary constraints. Innovation in PPP projects will be encouraged, it is also equally important that the processes for delivering a PPP project evolve to reflect experience and the changing environment within which infrastructure is constructed and financed, and ultimately in which services are delivered. Government will therefore monitor, review and from time to time refine its PPP Policy to achieve wider policy objectives.

2. DEFINITION OF PUBLIC PRIVATE PARTNERSHIPS

(1) A PPP is a contractual agreement between a public entity and a private entity, whereby the private entity performs part of a government organisation's service delivery functions and assumes the associated risks for a significant period. The role of Government is to plan and structure the PPP projects and in return the private sector will be responsible for implementing the projects and receiving financial remuneration according to predefined performance criteria, which may be derived from:

- (i) Service tariffs or user charges.
- (ii) Government budgets, via availability charges or service charges, and;
- (ii) A combination of the above.

(2) The Government acknowledges that a wide spectrum of PPP arrangements exist that differ in purpose, service scope, legal structure and risk sharing. The two main types of PPP schemes are:

(i) **Output and Performance Based Contracts**: The public sector retains a significant role in the partnership project, either as the main purchaser of the services provided or as the main enabler of the project. It purchases services and specifies the service outputs/outcomes required as well as the performance criteria for payments, with performance below these standards leading to deductions from service charges payable by the public sector to the private provider. The private party commonly provides the design, construction, operation and maintenance and financing for the partnership project, and is paid according to performance. Risks are identified and priced and placed with the party best able to bear and manage them at lowest cost.

(ii) **Concessions:** These are the most common in developing countries; here the private sector is responsible for designing, building, operating, maintaining and financing the project, thereby taking a considerable proportion of risk.

(3) The choice of the PPP arrangement for a project will depend on Government's policy in the related sector and on potential value for money to be generated under such an arrangement.

3. CHARACTERISTICS OF PUBLIC PRIVATE PARTNERSHIPS

The Government recognises and intends to put in place certain key pre-conditions which need to be present in the policy framework for PPP, as they are critical in delivering successful outcomes. These have been identified as:

(1) INSTITUTIONAL ARRANGEMENTS

Government will establish clear and unambiguous institutional functions to assist in the successful implementation of PPPs in the state. At the same time, there will be a degree of institutional flexibility to encourage experimentation and innovation, but most importantly, to ensure that public bodies that have capacity are not delayed while institutional capacity elsewhere is being developed. The Government will create an institutional framework that will provide better coordination and planning of infrastructure, greater accountability for public investment and delivery of public services, and more transparency in regulation and procurement. While institutional roles and responsibilities may change over time as Government's experience with PPP grows, this recognises that certain public institutions will play important roles in the programme.

(2) THE LEGISLATIVE ENVIRONMENT

Political and regulatory risks are potential barriers to effective PPP implementation. Hence, it is intended by Government that the regulation and legislation will be reviewed and possibly amended to reflect emerging trends in the evolution of the PPP structure within the state. This will create opportunities to establish a set of legal instruments, general principles and rules for PPP procurement that all MDAs will be expected to comply with, thereby ensuring some degree of consistency in approach across sectors.

(3) AFFORDABILITY

PPP options must be affordable both to Government and the public, given other priorities and commitments. The rationale for PPP is improved management of scarce resources, better risk allocation and more efficient and cost-effective delivery of services. Government is aware that while the private sector may be willing to finance and deliver infrastructure and services through PPP, only users or taxpayers can pay for them. Affordability thus acts as a real constraint, and Government will give serious consideration to the selection of potential PPP projects, ensuring always that their choices are in line with Government's policy priorities and objectives. PPP provides new forms of procurement, financing and operation in ways that are likely to result in improved management of scarce resources.

(4) VALUE FOR MONEY

For the Government's PPP infrastructure programme to be successful, it is essential the PPP projects involved in all sectors are seen to be "value for money". This means that the public infrastructure services provided by the private sector are provided at a lower cost to the tax payer than equivalent services provided by the public sector, after considering the value of project risks passed from the public sector to the private sector. In adopting this policy, the Government is making no presumption about the relative efficiency or effectiveness of the public and private sectors in the delivery of projects and services. Rather, it will use PPP where this is likely to result in better value and more affordable services. All procurement decisions will be made on merit and all proposals subjected to thorough economic and financial cost benefit analysis. Value for money is a combination of the service outcome to be delivered by the private sector, together with the value of risks transferred to the private contractor and direct costs to government and users. Where value for money drivers exist, PPPs can potentially deliver significant benefits in the design, the quality of services and the overall cost of infrastructure.

(5) CAPACITY BUILDING

As PPP represents a substantially new paradigm for Government, capacity building will be necessary for all stakeholders in the PPP process. The general level of awareness and understanding of PPP will be improved among all stakeholders to facilitate sound policy development and constructive discussion and debate. There is need to ensure a sufficient level of resources at all MDAs to deliver good PPP projects. The success of the PPP programme will depend on the development and retention of appropriate skills and expertise within the public sector. Ultimately, the Government will focus on transforming Zamfara Investment Promotion Agency (ZIPA) into a PPP centre of excellence through a rigorous training regime and external support, improving its ability to drive the PPP programme with support from relevant MDAs. The Government will improve on ZIPA's capacity to properly manage the procurement process, make necessary approvals and regulate, and in some cases modify, the PPP once operational.

4. SCOPE OF THE POLICY

This policy will apply to all projects for the provision of infrastructure and services by the State and Local Governments which would work directly or indirectly to deliver the broad policy objectives enshrined in the State Development Plan (SDP). The Sector Implementation Plans will include those projects or programmes that are deemed suitable for PPP within each MDA's Medium and Long-Term Action Plans for infrastructure development.

5. THE GOAL AND OBJECTIVES OF THE POLICY

The goal of the policy is to use PPP to increase the availability of infrastructure services with greater efficiency than can be achieved using the traditional public sector procurement approach. In attaining this goal, the Government seeks to adopt the following objectives:

(1) ECONOMIC

(a) To ensure that infrastructure projects are planned, prioritised, and managed to maximise economic returns and are delivered in a timely, efficient, and cost-effective manner.

(b) To use PPP as a catalyst for the implementation of the SDP and any subsequent development plans, considering the state's urban and local development plans.

(c) To accelerate investment in new infrastructure and ensure that existing infrastructure is upgraded to a satisfactory standard that meets the needs and aspirations of the public.

(d) To ensure that all investment projects provide value for money and that the costs to government are affordable.

(e) To develop more reliable public services by deploying private sector skills in project financing, risk management, project planning and the use of new technologies and innovation thereby ensuring greater value for money in the provision of public infrastructure.

(f) To improve the availability, quality, and efficiency of power, water, transport and other public services in order to increase economic growth, productivity, competitiveness, and access to markets.

(g) To increase the capacity and diversity of the private sector by providing opportunities for Nigerian and international investors and contractors in the provision of public infrastructure, encouraging efficiency, innovation, and flexibility.

(h) To manage the fiscal risks created under PPP contracts within the Government's overall financial and budgetary framework.

(i) To utilise state assets efficiently for the benefit of all users of public services.

(2) SOCIAL

(a) To release public finance resources for investment in necessary social services.

(b) To increase access to quality public services for all members of society.

(c) To enhance the employment generation potential and diversity of the state economy.

(d) To ensure that user charges for new or improved public services are affordable and provide value for money.

(e) To respect the employment rights and opportunities of existing employees and to ensure that any redundancy or other social safety net issues are resolved before final project approval.

(f) To enhance the health, safety, and wellbeing of the public.

(g) To cater for vulnerable groups and promote gender equality.

(h) To encourage the direct or indirect participation of small and medium sized enterprises in PPP projects.

(i) To enhance social integration and inclusive growth.

(j) Address the needs of vulnerable groups and gender-related issues.

(3) ENVIRONMENTAL

(a) To protect and enhance the natural environment.

(b) To minimise greenhouse gas emissions and other pollutants.

(c) To enhance opportunities for clean and resilient growth.

6. THE IMPLEMENTING PRINCIPLES

The Government shall promote and maintain the following principles when implementing PPP projects in the State -

(1) COMPETITION

The PPP procurement process shall be conducted via a competitive bidding process to ensure transparency in the process and to provide a mechanism for the selection of the best-value proposal. This will ensure compliance with global best practice to secure support from local and international lending institutions and grant funding organisations. The maximum benefits of competition will be realised if there is sufficient interest to generate multiple bidders, which normally arises with a public and transparent two-stage procurement process.

(i) Prequalification process is to select bidders that are best qualified to submit fully priced bids. A shortlist of bidders will then be selected based on a consistent selection criterion with the objective of excluding bidders.

(ii) Progressively reduces the number of bidders based on the evaluation of technical and financial bids until the Preferred Bidder is identified.

(2) TRANSPARENCY

Government acknowledges that bidding for PPP contracts through the two-stage bidding process can be expensive and that companies will only be prepared to participate in the process if they have confidence in its transparency. To gain this confidence, Government will make public the basis on which the successful bidder will be selected from the outset when advertising the range of works or services that they will require. Potential bidders can then make an informed decision on whether to participate in the competition, and, if they do, to maximise their chances of submitting a successful bid.

(3) FAIRNESS

(a) The same factors that drive the need for transparency will also apply to fairness. Bidders, or potential bidders, will have access to the same level of information about the requirements of the PPP project and about the procurement process itself. The criteria used to select the shortlist of bidders or to evaluate bids will be used to create a level playing field to obtain the optimal outcome and not to favour one bidder or group of bidders.

(b) The Government wishes to encourage international investors to Zamfara, to invest in PPP and will therefore allow bids to be widely advertised and open to international as well as Nigerian companies. Project information will be accessible to international audience as well as Nigerian companies and domestic preference clauses will not apply to PPP projects.

7. INSTITUTIONAL FRAMEWORK FOR PUBLIC PRIVATE PARTNERSHIPS

The Government agencies have roles and responsibilities to ensure that PPPs can be implemented successfully with the acceptance of all stakeholders and to the satisfaction of all beneficiaries. First and foremost, the Government is responsible for establishing a sound enabling environment for PPPs, meaning that transparent and effective PPP legislative and institutional frameworks are in place. The

Government is also responsible for the necessary planning to determine whether the PPP model is most appropriate. The legislative framework governing PPPs in Zamfara State allocates specific roles and responsibilities to various entities. To make sure that there are checks and balances in the system, as well as oversight of the decision-making process, many of the Government entities are involved in the PPP process from beginning to end. The entities are:

(1) ZAMFARA STATE EXECUTIVE COUNCIL

The State Executive Council is the approving authority for decisions relating to development and final approval of the PPP Projects Pipeline.

(2) ZAMFARA INVESTMENT PROMOTION AGENCY

(a) Zamfara State Investment Promotion Agency (ZIPA) was established under the ZIPA Law, 2023. The law was enacted to stipulate the legal framework for PPP projects procurement in the State and public infrastructure and provide social amenities and other facilities for the State through PPPs. The ZIPA Board is chaired by the Deputy Governor. It has seventeen members and the Executive Secretary of ZIPA is the Secretary to the Board. The Board shall be the approving body for all PPP transactions in the State.

(b) The Government use the ZIPA law to develop new regulations that will give ZIPA the power to:

(i) Be responsible for the development of its PPP policy and refinement over time.

(ii) Be the key driver and promoter of PPP projects and be managing the PPP project life- cycle, not as the contracting entity, but as the Government advisory and coordinating body for the implementation of PPPs.

(iii) Coordinate with the Ministry of Budget and Planning and relevant MDAs to conduct the economic appraisal, planning, prioritisation of infrastructure projects and investment to create a pipeline of PPP projects.

(iv) With the support from the MDAs, ensure that PPP projects are carefully appraised, scoped and planned prior to initiating a procurement process.

(v) Appoint Transaction Advisers to support the MDAs in the procurement process.

(vi) Develop guidelines to assist MDAs in the roll-out of their PPP projects; these will be codified in a body of regulations and model contracts supported by a PPP Manual and an online toolkit, to demonstrate and assist MDAs in carrying out best practice.

(vii) To ensure effective stakeholder engagement allowing for public consultation on user charges and assess market interest.

(viii) To be the centre of excellence for PPP by building capacity for PPPs and promote good practice and knowledge sharing with MDAs and the private sector, and serve as a "PPP Knowledge Centre" by maintaining a central repository of all documentation and records, including agreements, about PPPs.

(3) MINISTRIES, DEPARTMENTS AND AGENCIES

The MDAs are responsible for managing public infrastructure and services and for the management of their own resources. The MDAs are to prepare long-term plans for infrastructure, investment, maintenance and incorporate them into the Plan. The MDAs and other public bodies will support ZIPA in the identification of a PPP Pipeline of projects to be included in the Sector Implementation Plans (SIPs) of relevant sectors and for selection of investors. The MDAs will:

(a) Support ZIPA throughout the PPP procurement process.

(b) Be the contracting authority for PPPs.

(c) Supervise and monitor the delivery of PPP projects in their sectors.

(4) MINISTRY OF FINANCE (MOF)

The Ministry of Finance (MoF) will play an important role in public financial management of PPP projects, and in evaluating and managing fiscal risks that may result from PPP agreements. The MoF will ensure that the forecasted costs for the Government include subsidies that may be required to make a project viable and affordable over the full life of the contract. Together with ZIPA and the relevant MDA it will also review the value for money, costs and contingent liabilities as the project design and risk valuations are refined during the project preparation and procurement phases. The MoF will play a key role in assessing the budgetary implications of PPP projects. ZIPA will work closely with the MoF in the assessment of PPP project affordability, value-for-money, feasibility and identification of any contingent liabilities associated with PPP projects.

(5) MINISTRY OF BUDGET AND PLANNING

The Ministry of Budget and Planning is the primary agency of government that facilitates efficient and effective mobilisation, planning, allocation and utilisation of resources for socio-economic transformation of the State. The Ministry of Budget and Planning will ensure that there is better coordination and planning of infrastructural investment and greater use of economic appraisal techniques to prioritise investment. The Ministry will provide the tools and methodologies for the economic appraisal of investment projects to be funded by the budget and included in the various SIPs and the support of ZIPA and MDAs to prepare a prioritised PPP Pipeline of Projects to be funded by the private sector.

(6) MINISTRY OF JUSTICE

The Ministry of Justice is responsible for the preparation and approval of all PPP contracts and shall perform this task as an integral member of the ZIPA Board and through the representatives of the Ministry who shall provide legal support to ZIPA during the PPP procurement process.

8. THE LEGISLATIVE FRAMEWORK FOR ZAMFARA STATE

The PPP procurement in Zamfara State is governed by the following legislation:

(i) The Zamfara Investment Promotion Agency Law 2023;
(ii) The Zamfara State Public Procurement Law; and
(iii) Regulations issued by the State Executive Council (Exco) governing the PPP process.

9. THE ENABLING ENVIRONMENT

(a) The Government shall review these laws and regulations and set out the requirements for competition and private sector participation in all public procurement and specify the necessary approvals required for PPP procurement. Through such legislation, the Government assures investors that all contracts completed in compliance with the laws are legal and enforceable, and that investors would be able to recover their expected return subject to compliance with the terms of the PPP contract. To further safeguard a quick and efficient PPP procurement process, the Government intends to give ZIPA, with support of the State Executive Council, the full responsibility and control over the PPP procurement process in order to avoid unnecessary delays. ZIPA will, on the onset, harmonise its procurement processes within the framework of the Zamfara Public Procurement Law and will thereafter manage the process in accordance with the procurement process in the PPP Manual.

(b) By creating an appropriate enabling environment for PPP and allowing a fair return to private investors for the project risks that they will take, the Government believes that it can harness PPP to supplement scarce public resources, although Government will still provide the greater part of investment funding for infrastructure. The Government recognises that it will need to develop its policies and practices, and in some cases introduce or amend legislation, if it is to encourage greater private sector participation in delivering public services and attract private capital to fund the country's infrastructure and related services. The Government will:

 (i) Provide a clear policy and regulatory framework for PPP and greater transparency and fairness in awarding contracts and resolving disputes.
 (ii) Work with international development institutions where deem necessary to reduce financing costs.
 (iii) Ensure that its procurement processes are fair, transparent, and well managed, and compliant with all relevant legislation.
 (iv) Improve capacity and skills in the public sector to manage projects more effectively.
 (v) Communicate its plans and policies effectively to the general public and investors, and work with the Federal Government to ensure that there is a clear and consistent approach to PPP.

10. NEW FRAMEWORK FOR PUBLIC PRIVATE PARTNERSHIPS

The Government will put in place a legal, financial, and institutional framework that will promote and facilitate the implementation of privately financed infrastructure projects by enhancing transparency, fairness and the long-term sustainability of projects. It will apply lessons learned in any further refinement of its policy and the associated legal, financial, and regulatory frameworks. It will disseminate this knowledge and experience throughout the public sector and continue to build capacity in MDAs in the planning, procurement, and management of PPP projects. It will ensure that its economic policies provide a stable and predictable environment for investors. Ultimately the new laws and regulations will create the following:

11. LEGAL FRAMEWORK

(a) Ensure that public authorities are empowered to enter into agreements for the implementation of privately financed infrastructure projects and can delegate their statutory functions to private companies.

(b) Ensure that the regulation and licensing of public service operators and operations is transparent, timely, and effective.

(c) Provide appropriate remedies for protecting the safety and integrity of public infrastructure from vandalism and other criminal activity.

(d) Ensure that there are no distortions created by existing tax, banking, company, or any other laws that would bias the investment decisions of public authorities for or against PPP as a procurement option, or would distort the commercial decisions of PPP investors, contractors, or operators.

(e) Provide for transparent, efficient, and competitive procurement procedures for PPP- type contracts that encourage innovation from bidders and allow dialogue to optimise the allocation of risks between the contracting parties.

(f) Ensure that there is an effective disputes resolution process which can operate independently and in a timely manner to provide alternative procedures such as arbitration and expert determination.

(g) Ensure that the proposed institutional and financial framework for PPP and the issuance of guarantees, partial risk insurance or other financial instruments by, or through, the Federal Government is consistent with the Federal Fiscal Responsibility Act 2007 and the Zamfara State Fiscal Responsibility Law 2024.

12. FINANCIAL FRAMEWORK

The Government will strengthen its Medium-Term Expenditure Framework (MTEF) and the Sector Implementation Plans (SIPs) of its Ministries, Departments and Agencies to:

(a) Provide guidance to MDAs on the renewal of the State Development Plan that will provide a planning tool for the prioritisation of infrastructure financed from public funds that will also include PPP Projects Pipeline to be financed through PPP contracts.

(b) Issue guidance to all public authorities and provide support and advice on discount rates, indexation and inflation, techniques for measuring costs and benefits, and the valuation of risks.

(c) Allocate responsibility for monitoring any contingent liabilities and risks that arise from PPP contracts and any sub sovereign or other guarantees, partial risk insurance, subsidies, or exchange rate volatility.

(d) Ensure that its policies on user charges and tariff subsidies are sustainable and meet the needs of both investors and users.

13. PUBLIC PRIVATE PARTNERSHIPS AND PLANNING

(a) ZIPA will identify, in consultation with the Ministry of Budget and Planning, a list of potential PPP projects, and with support from the Ministry develop, the criteria for preparation and screening of projects for a prioritisation of a PPP Project Pipeline. These assessments will determine whether a project would make a suitable candidate for further preparation and implementation through a PPP arrangement. The assessments provide recommended actions for undertaking the next steps for the detailed analysis, risk structuring, review, and possible tendering of each PPP candidate project. In setting out these priorities, ZIPA and the Ministry will take into consideration:

(i) The State's investment priorities and its short- to long-term goals for the development of infrastructure in a sustainable manner.

(ii) Where PPPs are likely to offer better value-for-money over other forms of public procurement.

(iii) The current resources, project management capacity and efficiency of the private sector.

(b) The PPP Projects Pipeline Plan will be updated from time to time by ZIPA in accordance with the criteria agreed with the Ministry of Budget and Planning and shall be included in relevant Sector Implementation Plans. Unsolicited proposals by the private sector will be subject to the same project review process described in the criteria and will be procured in accordance with this Policy once they are incorporated into the PPP Projects Pipeline.

14. PUBLIC PRIVATE PARTNERSHIPS AND REGULATION

(a) The Government does not have the intention to establish independent regulatory bodies to regulate pricing and competition issues. An economic regulatory regime via the PPP contracts will be developed with the use of arbitration and tribunals to settle disputes. Pre and post contract monitoring of safety and environmental regulation will be the responsibility of Environmental Protection and Enforcement Agency.

(b) ZIPA will continue to consult with the private sector and interest groups on the options for reforms to remove barriers and make PPP arrangements more efficient.

15. WORKING WITH THE FEDERAL GOVERNMENT

(a) Government acknowledges that the Federal Government is responsible for the delivery of Federal Infrastructure such as power, railways, the major ports and airports, and interstate roads. The Government will continue to work with the relevant Federal Ministries, Departments, and Agencies to ensure that investment is directed to developing and improving those Federal infrastructure assets located within the State. In undertaking its own PPP transactions, the Government will ensure that there is a consistency of approach between Federal and State PPP policies as they evolve. The Government will also invest directly alongside other private investors, where appropriate and by agreement with the Federal Government, in support of projects to improve the availability of infrastructure when this is in the long-term interest of the State.

(b) The Government further acknowledges that some State projects may require Federal Government guarantees in order to attract international finance. These projects will have to also comply with the process for the Federal projects as they will require the approval of the Federal Executive Council.

16. STAKEHOLDER CONSULTATION AND PARTICIPATION

The Government shall take into consideration the concerns of potential private sponsors, users and other key stakeholders over the lack of bankability of PPP projects by consulting with such key stakeholders as early as possible, to solicit their guidance on what is and not sustainable, commercially viable project, before final decisions are taken regarding project structure and design. This will assist the Government in finding a solution to the problem of poorly structured, unsustainable PPP projects.

17. THE PROJECT CYCLE

The standard PPP process to be adopted by Government shall take the following steps:

(1) PROJECT DEVELOPMENT

(i) Identification of need and ranking of projects in the PPP Pipeline.

(ii) Budget allocation in the MTEF and SDP.

(2) PRE-FEASIBILITY STUDY

(i) Systematic appraisal of technical solutions to the identified need;

(ii) Preparation of economic, social and environmental cost benefit analysis, and an Environmental Impact Assessment, if required;

(iii) Value for Money (VfM) and affordability testing of different procurement options;

(iv) Preparation of financial analysis;

(v) Approval of Outline Business Case (OBC) by the ZIPA Board prior to the commencement of procurement;

(3) PROCUREMENT

(i) Creation of management structure by ZIPA and project teams consisting of relevant MDA staff;

(ii) Appointment of Transaction Advisers through a competitive and transparent procurement process, with a clear audit trail for the selection of bidders and the evaluation of bids;

(iii) Preparation of an Information Memorandum and bid documentation;

(iv) Market consultation, if appropriate;

(v) Selection of investors through a competitive and transparent procurement process, with a clear audit trail for the selection of bidders and the evaluation of bids;

(vi) Approval of Full Business Case (FBC) by the ZIPA Board before the decision to award a contract.

(4) IMPLEMENTATION

(i) Monitoring of design and construction, and subsequently operation and maintenance to ensure compliance with the required service standards;
(ii) Contract service supervision and management, performance monitoring and change management;
(iii) Monitoring of payments against services delivered and any contingent liabilities.

(5) MATURITY

(i) Inspection and preparation for the handover of any public assets in accordance with the specified requirements, if appropriate;
(ii) Analysis of future service delivery options and further procurement, if appropriate;
(iii) Contract close and recording of lessons learned.

PROVIDE the Government will provide further guidance through the PPP Manual on the effective management of each phase of a PPP project.

(6) UNSOLICITED PROPOSALS

It is the Government's intention to encourage innovation in as many areas as possible. Thus, ZMSG acknowledges that private companies are often well positioned to recognise potential demand for infrastructure facilities and to devise innovative ideas to develop and operate such infrastructure facilities. A key objective of this policy is to encourage greater innovation in the delivery of its infrastructure and public services sectors. This can be achieved by encouraging unsolicited proposals for PPPs to be submitted by private sector developers. Where an unsolicited proposal is received, the MDA will forward such proposal to ZIPA for a holistic review and submit to the Ministry of Budget and Planning for inclusion in the PPP Pipeline and relevant SIPs. Unsolicited PPP proposals will have to go through sufficient transparency and competition, but the Government will allow for inbuilt procurement advantages to benefit the Private proponents.

The Government will seek to get the balance right between encouraging the private sector to submit project ideas, without losing the transparency and efficiency gains of a well-conceived competitive tender process. While all proposals will be treated on a case-by-case basis, consideration of unsolicited proposals will be the exception rather than the rule, and limited mainly to projects that demonstrate genuine innovation and/or use of proprietary technology.

18. CONCLUSION

(a) This Policy Framework sets out the policies and processes that the Government will introduce to provide new investment in State public infrastructure. By adopting this policy, the State Government is expected to leverage on PPPs to rehabilitate and expand the state's infrastructure, thereby growing the economy, creating jobs in the state and achieving the state's economic development goals.

(b) The PPP policy will harness private sector support towards the State's public works programme, with the immediate focus on the rehabilitation and expansion of roads, expanding access to electricity to major farming and mining centres through rural electrification, and accelerated connection to the national grid and easing urban and rural transportation.

(c) It is the intention of Government to create an environment with a credible PPP legal framework that will harmonise both public and private sector interests that is mutually beneficial for both parties for the duration of the agreement.