OVERVIEW OF PPP IN VIET NAM

HCM city, 22 May 2018
Content

1. PPP decree and Investor selection decree

2. Overview of potential projects
1. CURRENT DECREES
PPP

Definition:

Investment based on contract between ASA (authorized state agency) and investors/SPV to build, renovate, operate, manage public infrastructure or services.

[concession]
LEGAL FRAMEWORK: DEVELOPMENT

Decree 77/CP (1997) on BOT for domestic investors

Decree 78/2007/ND-CP on BOT, BTO, BT

Decree 108/2009/ND-CP on BOT, BTO, BT

Decree 15/2015/ND-CP on PPP and Decree 30/2015/ND-CP on investor selection

Decree No.63/2018/ND-CP on PPP and Decree… on investor selection

To-be Law on PPP
LEGAL FRAMEWORK: at a glance

**LAW**
- Construction Law
- Investment Law
- Public Investment Law
- Law on management and use of public assets
- Procurement Law

**DECREE**
- Decree 63/2018/NĐ-CP on PPP
- Decree replacing 30/2015/NĐ-CP on investor selection

**CIRCULAR**
- Circular 02 on Pre-FS, FS
- Circular 06 on general issues
- Circulars of MOF, MOIT, MOT, MIC
- Circular 183/2015/TT-BTC on BT
- Circular 15/2016/TT-BKHĐT dated 29/9/2016 on RFQ, RFP
Investment sectors

- Transportation
- Power plants, power transmission lines;
- Public lighting system, water supply, drainage, waste water treatment facilities, solid waste treatment, park, parking areas; cemetery
- Office buildings of state agencies; public housing, resettlement shelter
- Healthcare, education, training, vocational training, culture, tourism, sports, hydro-meterology;
- Infrastructure for commercial zone, urban area, economic or industrial zone, information technology parks; start-up supports;
- Agricultural and rural development; services for connecting the production with the processing and sales of agricultural products
- Other sectors pursuant to Prime Minister’s decision.
PPP project

• In conformity with master plan
• Of the eligible sectors
• Economically feasible
• Financially feasible
• Environmentally viable
• Affordable
Public participation

• Capital contribution
  – Types: in cash, in kind
  – Sources: public investment fund, public assets

• Availability payment
  – Sources:
    • Public investment fund
    • Public recurrent expenditure fund
    • Revenue from public services

• Land compensation/clearance costs, auxiliary works

Not apply to single source selection of investor
Private participation

(apart from public capital and land clearance supports)

• Equity
  – 20% [for investment size of up-to VND 1500 billion ~ US$ 70 million]
  – And 10% [for the part of investment above VND 1500 billion]

• Debt
  – Remaining %
  – Commercial
Procedures

Project development

Pre FS stage

FS stage

Design stage

Construction stage

Operation stage

Normal

High-tech promotion

Some

Investor selection

Investor selection

Solicited or Unsolicited
Preferred treatment to unsolicited proponent

**Incentives**

- **Service price**
  - 5% of the service price to the investors not entitled to incentives

- **State capital contribution**
  - 5% of the proposed State capital contribution to the investors not entitled to incentives

- **Social and State benefit**
  - 5% of the amount contributed to the State budget to project proponent

- **Combined method**
  - Incentives in proportion to the combined method, however the total value not exceed 5%. 
Classification

Project of national importance
- Pre-FS approved by NA
- FS by Minister / Chairman of Province

Group A
- Some Pre-FS approved by PM
- FS by Minister / Chairman of Province

Others
- Pre-FS by Ministry / Province
- FS by Ministry / Province

Abolishment of investment certificate
Transparency

• Pre-FS and FS info after approval (pipeline)
• Bidding plan, opportunities, selected investors (deal)
• Basic contract info for supervision
New chapter for BT

• Procedure
• Payment scheme: land, other rights
• Principles:
  – Pre-identifying resources
  – Bidding upon FS/design
  – Detailed master plan of land use
Investment incentives, tax incentives

- Incentives on corporate income tax imposed on investor, project enterprise
- Incentives on import and export duties imposed on goods imported to implement a project
- Tax incentives for foreign and domestic contractors participating in implementation of a project
- Exemption from or reduction of land rent or land use fees for the area of land allocated by the State
- Other incentives
Investment guarantees and support

- Allow for mortgaging assets or the rights to commercially operate the project facility.
- Guarantee that the land use purpose of the project shall remain unchanged in the entire implementation term of the project contract.
- Support land clearance and completing procedures for land allocation or lease of land to implement the project.

Assignment / transfer of equity: after completion of construction phase.
Step-in right of lenders

The lender shall have the right to take over on its own, or to appoint another competent organization to take over, all or some of the rights and obligations of the investor, project enterprise (hereinafter referred to as Step-in-Rights) in the event that the investor or the SPV fails to fulfill obligations under the project contract or loan agreements.
Guarantee on foreign currency conversion

Permitted transactions
- Buy foreign currency
  - Conduct foreign exchange activities to satisfy current transactions, capital transactions and other transactions; remittance abroad of capital, profit, proceeds from investment.

Projects to be considered for guarantee on foreign currency conversion
- Infrastructure projects of national importance or with Pre-FS approved by PM
- Other important projects

Procedure
- Initiated by Ministry / Local People Committee
- Reviewed by / co-ordinated with SBV
- Approved by PM

• No guarantee on Foreign Exchange Rate
Dispute settlement

The signing parties may agree on the application of foreign law governing the 02 contracts, which must not contradict the provisions of the laws of Vietnam on selection and application of foreign law.

Dispute Settlement

- Mode of dispute settlement: negotiation, conciliation, by arbitration or by the courts

- Dispute arising between the authorized state agency and a foreign investor or the project enterprise shall be settled by arbitration or by the courts of Vietnam or by an arbitral tribunal established by the parties
2. POTENTIAL PROJECTS
Potential projects

- **383 proposed projects**
- **66 dự án ưu tiên**
- **17 considered**

**8 projects of North – South highway**

**9 by ASAs: MARD, MIC, Ha Noi, HCM city, Quang Ninh, Da Nang**

*On-going process, more to come*
## MOT: North-South express way

<table>
<thead>
<tr>
<th>No.</th>
<th>Project</th>
<th>Length (km)</th>
<th>B (m)</th>
<th>Total Investment (US$ bil.)</th>
<th>Capital (US$ bil.)</th>
<th>Investment form</th>
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<tr>
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<td>Site Cl.</td>
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<td>Cao Bo – Mai Son</td>
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<td><strong>1.22</strong></td>
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Source: MOT presentation on May 2, 2018
HCM city: investment preparation

- Sectors: Transport, environment, urban refurbishment, urban development: 94 projects; trade and service: 02 projects; education sector: 04 projects; health care: 14 projects; culture and sport sector: 17 projects.

Proportion of PPP projects in investment preparation stage

By sector:
- Transportation, environment, urban refurbishment: 72%
- Education: 13%
- Health: 11%
- Culture- sport: 3%
- Trade and service: 1%

Source: HCM city DPI (presentation May 2, 2018)
Potential projects

Living lists … (info from different events)
- 50+ projects of Hanoi
- 45+ projects of Quang Ninh
- 12+ projects of MOH
- …

Projects on track / required to publicized online:
http://muasamcong.mpi.gov.vn (source)
http://ppp.mpi.gov.vn (sister site)

*Upgrading for English content*
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THANK YOU!