

# **Guidance Manual for Public-Private Partnership Projects**

## **Partnerships for Infrastructure Projects**

March 2020

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Email: [ppp@adio.ae](mailto:ppp@adio.ae)

Website: [www.investinabudhabi.ae](http://www.investinabudhabi.ae)

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## **Section 1: Introduction**

### **1.0 Introduction**

#### **1.1 Overview**

##### **1.1.1 Why Choose Partnership Projects?**

The Government has identified partnership projects to encourage private sector participation in development projects and as a means to accelerate

infrastructure investment, access private sector financing, and improve the delivery and quality of public facilities and services.

Effectively structured partnership projects have brought numerous benefits to economies worldwide by creating many job opportunities, promoting sustainable economic growth, and stimulating private sector investment in target sectors.

Among the benefits the Government seeks to achieve through the implementation and establishment of partnership projects are:

- Increasing private sector investment in Abu Dhabi's infrastructure sector through local and international developers and investors.
- Establishing genuine partnership relationships with private sector investors and developers.
- Enhancing accountability for government spending through effective analysis and development of (and adherence to) consistent and transparent processes.
- Increasing government access to private sector innovation, entrepreneurship, and efficiencies.
- Distributing the cost of supplying public assets and services through long-term contracting.
- Increasing accountability for the provision and long-term management of public facilities and services through performance-linked payment mechanisms.

### **1.1.2 The Government's Approach to Partnership Projects**

The Government is working to ensure that partnership projects in Abu Dhabi generally align with the following characteristics (although the structure of each partnership project will be considered on its own merits):

- Requiring the private partner, as appropriate, to design, finance, build, maintain, and operate public assets and facilities based on output-based specifications (rather than input-driven specifications).
- Requiring the private partner to operate assets and provide services over the long term.
- Providing payments according to the terms of the partnership agreement, generally once the assets are operational.

- Providing payments during the term of the partnership agreement based on the services provided, subject to achieving key performance indicators and output specifications.
- Providing for the return of assets to the procuring entity at the end of the term in accordance with specified contractual handover requirements.

### **1.1.3 Legislative Background**

To encourage the development, procurement, and tendering of partnership projects, the Government has issued the following:

- Law No. (1) of 2019 Concerning the Establishment of the Abu Dhabi Investment Office (ADIO Establishment Law).
- Law No. (2) of 2019 Concerning the Regulation of Partnership Between Public and Private Sectors (PPP Law).

The Government subsequently issued the Implementing Regulations in accordance with the PPP Law (the Regulations), to facilitate and clarify the implementation of the Law Regulating Partnership Between Public and Private Sectors.

The Abu Dhabi Investment Office issues this guide under the authorities granted to it by the ADIO Establishment Law and the PPP Law and its Implementing Regulations.

### **1.1.4 Structure of This Guide**

The Guidance Manual for Partnership Projects (the Guide) outlines the steps and procedures to be followed for the development, procurement, and management of partnership projects in Abu Dhabi. The Guide consists of the following four sections:

- Section 1: Introduction presents the structure and purpose of this Guide, describes the broader legislative framework, briefly outlines the role of the Abu Dhabi Investment Office, other concerned government entities, and project teams, and sets out the core principles to be followed by parties involved in the development, procurement, and management of partnership projects.
- Section 2: Structuring and Due Diligence describes the stages of originating a candidate project, its structuring, and due diligence,

particularly the development of the Concept Report and Feasibility Study, up to the point where an investment decision is made.

- Section 3: Bid Management describes the processes and methodologies to be followed during the tendering, negotiation, and contract award for a partnership project.
- Section 23.

#### **1.1.4.1 Technical and Other Available Information**

When preparing the Concept Report, the Project Team must assess the level of technical and other details provided as part of the project proposal at the origination stage and determine the best way to integrate and prepare this information to meet the requirements of the Concept Report.

A candidate project may reach a level of technical design maturity at the origination stage, for example, but it is necessary to assess and develop the design economics according to the requirements of the Concept Report.

For example, the procuring entity may have already prepared a technical feasibility study or concept design, or have a detailed design and tender package in place (e.g., Employer's Requirements, specifications, and fully coordinated detailed design) in anticipation of traditional procurement. While this may provide advantages to the project team in terms of providing details for costing and planning, the design may not be economically viable, and the approach may be more prescriptive than is appropriate for a PPP model.

The scope of the relevant work is a factor in the level of detail available at that time, but the expectation is that the technical and financial information provided as part of the project proposal will be assessed and validated, and prepared to the level of detail and format as required to enable:

- An accurate set of information necessary to initiate a detailed feasibility study.
- An initial investment decision to be made before proceeding to the feasibility study stage.

#### **1.1.4.2 Needs Assessment**

The needs assessment evaluates the social and economic needs of the candidate project with reference to a set of agreed-upon objectives. The Project Team should use available, reliable data to assess all relevant factors below, unless a relevant needs assessment commissioned by the Government is available.

	<b>Needs Assessment</b>
<b>Capacity</b>	The capacity of existing infrastructure to meet growing demand for infrastructure and services, future growth projections, and development plans (e.g., congested road networks, inadequate healthcare service availability evidenced by long waiting lists, etc.)
<b>Obsolescence</b>	Obsolescence of existing infrastructure (e.g., technologies, equipment, and whether assets are fit for purpose)
<b>Compliance</b>	Compliance of existing infrastructure with regulatory and/or environmental standards (e.g., emissions from coal-fired power plants or inappropriate solid waste management practices)
<b>Condition</b>	Condition of existing infrastructure (e.g., need to replace cracked or worn-out infrastructure)
<b>Service Levels</b>	Scope of current service levels (e.g., any apparent gaps and operational inefficiencies)
<b>Other</b>	The project team should consider the social and environmental pros and cons of candidate projects in addition to the above

The needs assessment does not depend on or influence the choice of contracting model.

#### **1.1.4.3 Global or Regional Benchmarking Analysis of Similar Projects**

This analysis identifies global and regional examples of projects similar to the candidate project. The goal is to identify precedents of successfully



implemented partnership projects to draw key lessons learned for technologies, costs, revenue streams, tariff structures, project structuring, potential bidder universe, procurement process, contractual arrangements, and other critical success factors.

#### **1.1.4.4 Cost and Revenue Benchmarking Analysis**

This analysis identifies the cost and revenue that the candidate project could generate in order to assess its relative benefits. It should include supporting empirical benchmark cost data derived from databases that include projects of similar size, complexity, and scope (and adjusted as necessary for any differences in specifications, location, and base date of the data). This information is typically provided by the procuring entity and any appointed technical advisors.

This information should include:

	<b>Cost and Revenue Benchmarking</b>
<b>Capital Expenditure</b>	The standard format of the Building Cost Information Service (BCIS) should be used for cost analysis and cash flow analysis, which should be an S-curve for construction consistent with the construction program, in the format of relevant industry standards, for example, for infrastructure projects involving social and transport infrastructure.
<b>Operating Expenditure</b>	Include all soft and hard facilities management costs (including reactive and planned maintenance) in the BCIS format or a similar format.
<b>Lifecycle Sinking Fund</b>	Expressed as a cost per relevant functional unit at real value or as a percentage of capital expenditure disbursement, usually, but not necessarily, in five-year intervals over a time horizon of at least 25 years. It is expected that the project team will develop the lifecycle sinking fund model at the feasibility study stage in the BCIS format.
<b>Revenue</b>	Including assumptions covering third-party revenue, user charges, and any revenue realization and capital

	<b>Cost and Revenue Benchmarking</b>
	payments expected to be collected through the financial leveraging of assets.

#### 1.1.4.5 Project Program

The Project Team will develop the Project Program which covers the overall transaction timeline, construction program, and operation. This may be done at a preliminary level in the Concept Report and further detailed and updated in the Feasibility Study.

<b>Project Program</b>	
<b>Transaction Timeline</b>	<ul style="list-style-type: none"> <li>■ Identify the key steps to complete the structuring, due diligence, and bid management phase up to Commercial Close.</li> <li>■ This should include the expected time to receive approvals from relevant approving bodies.</li> </ul>
<b>Construction Program</b>	The Project Team should clarify the expected construction program with timelines, depending on the level of detail used in the cost and revenue benchmarking analysis.
<b>Operational Program</b>	The Project Team should clarify the expected operational program for the project. This may be done at a very preliminary level in the Concept Report.

#### 1.1.4.6 Initial Risk Assessment and Allocation

The project team will conduct a preliminary risk assessment, to the extent that information is available, including key project risks, risk allocation to responsible parties, and risk mitigation and management strategies.

#### 1.1.4.7 Initial Procurement Options Analysis

The project team will identify procurement options (including lessons learned from global and regional benchmarks and selection of preliminary alternatives for the contracting model based on the specific objectives and

scope of the candidate project). The goal is to identify the preferred contracting model that can be finalized in the feasibility study.

#### **1.1.4.8 Initial Value for Money Analysis**

The project team will conduct a Value for Money analysis focusing on qualitative aspects and qualitative value for money (additional details on Value for Money are provided in Appendix 5.8).

#### **1.1.4.9 Progress to Feasibility Study Preparation**

Upon completion, the project team will submit the Concept Report to the Abu Dhabi Investment Office and the procuring entity and will consult with ADIO to identify the candidate project to proceed with for the feasibility study analysis. If ADIO and the procuring entity grant their approval, the project team may proceed to prepare the feasibility study as specified in paragraph 2.3.3.

#### **1.1.5 Feasibility Study**

The purpose of the feasibility study is to build on the analysis in the Concept Report to demonstrate the financial and economic viability of the candidate project if it were to be procured as a partnership project as an alternative to the traditional procurement model.

The feasibility study should include the elements below, along with other elements described in Appendix 5.6.

<b>Feasibility Study</b>	
<b>Procurement Options Analysis</b>	A detailed analysis of procurement options to establish the preferred contracting model that best aligns with the government's core objectives (taking into account whether a full options analysis was conducted as part of the Concept Report stage).
<b>Technical Study</b>	A detailed technical study including a summary of the project scope, technical considerations, and any supporting technical information necessary to clarify and describe the scope of the proposed project, which should include all relevant technical components covering planning, design, construction, commissioning tests, operations, and handover

<b>Feasibility Study</b>	
	requirements (if appropriate for the preferred contracting model).
<b>Financial and Economic Analysis</b>	Financial and economic analysis that includes the preparation of the shadow bid model and the Public Sector Comparator, Value for Money assessment (including risk quantification and others), and financial risk assessment.
<b>Transaction Structure</b>	The proposed transaction structure including legal and regulatory assessment and recommendations.
<b>Market Sounding</b>	Feedback and conclusions from the market sounding process.
<b>Procurement Plan</b>	A detailed procurement plan.
<b>Partnership Agreement</b>	<p>The key terms of the proposed partnership agreement, for example:</p> <ul style="list-style-type: none"> <li>■ Concession term.</li> <li>■ Scope of obligations.</li> <li>■ Payment arrangements.</li> <li>■ Termination arrangements.</li> <li>■ Relief mechanisms.</li> <li>■ Equity or capital contribution and ownership rights from the government.</li> <li>■ Other key provisions as stipulated in Article (12) of the PPP Law.</li> </ul>

The scope of the relevant work will be a factor of the information available in the Concept Report (if prepared by ADIO), but it is expected that the feasibility study will include the required level of information and analysis to support a decision to proceed to the bid management stage.

#### **1.1.5.1 Procurement Options Analysis**

<b>Procurement Options Analysis</b>	
<b>Purpose</b>	<ul style="list-style-type: none"> <li>■ Select a preferred contractual model that best aligns with the Government's core objectives through a transparent and well-documented selection process that identifies, evaluates, and compares all applicable forms of available procurement models and their variants.</li> <li>■ Where possible, this aims to further develop and refine the established procurement solution by discussing it in a selection process that involves innovative procurement solutions and focuses on maximizing Value for Money for the Government.</li> </ul>
<b>Procedures</b>	<p>The options analysis should generally be carried out in four consecutive steps:</p> <ul style="list-style-type: none"> <li>■ Step 1: Agree on scope, objectives, and evaluation criteria.</li> <li>■ Step 2: Identify and evaluate contracting model options.</li> <li>■ Step 3: Conduct a preliminary market sounding.</li> <li>■ Step 4: Select the contracting model.</li> </ul>

<b>Procurement Options Analysis</b>	
<b>Outcomes</b>	<ul style="list-style-type: none"> <li>■ The Project Team should prepare a summary report detailing the process undertaken during the options analysis at the end of the analysis, including the results and a summary of any preliminary market sounding conducted.</li> <li>■ If the options analysis identifies a preferred contracting model for the candidate project, the Project Team should proceed to the financial and economic analysis stage. If not, the Project Team should discuss alternative procurement models with the Abu Dhabi Investment Office and the procuring entity.</li> </ul>

### **1.1.5.2 Detailed Technical Study**

If a detailed technical study was not conducted as part of the Concept Report, the Project Team must ensure that a detailed technical study is conducted, including the following:

- Project scope, technical considerations, and any supporting technical information necessary to clarify and describe the scope of the proposed project, which should include all relevant technical components covering planning, design, construction, commissioning tests, operations, and handover requirements (if appropriate for the preferred contracting model).
- A technical summary of the preferred technical solution.
- A summary of technical requirements for design, construction, and operation, and output specifications.
- Identification, quantification, and summary of technical risks (including implementation risks and termination events).
- A summary of the technical components of the proposed payment mechanism (including key performance indicators and availability).
- A summary of tests on completion, including a summary of the role and scope of the independent certifier.

- Project program and phasing assumptions (including any planning and utility approvals).
- Preparation of detailed cost data and revenue models (with periodic updates as needed).
- A detailed cost and revenue benchmarking analysis.

### 1.1.5.3 Financial and Economic Analysis

The financial and economic analysis aims to assess the financial viability of the project from the perspective of both the procuring entity and the project company, taking into account the long-term nature of the candidate project, the proposed risk allocation, potential funding sources to be used by the project company, and the financial commitments of the Government.

The financial and economic analysis should focus on the following key components:

<b>Financial and Economic Analysis</b>	
<b>Risk Allocation</b>	<p>The Project Team should prepare a comprehensive risk analysis that includes:</p> <ul style="list-style-type: none"> <li>■ Identifying relevant material financial risks.</li> <li>■ Understanding the relative value and cost of these risks.</li> <li>■ Determining who should bear responsibility for the risks.</li> <li>■ Studying how to limit or mitigate the impact of each risk.</li> <li>■ Defining how risks will be monitored and managed throughout the partnership project period.</li> </ul>
<b>Financial Commitments</b>	<ul style="list-style-type: none"> <li>■ The Project Team must assess the long-term financial commitments arising if the candidate project is procured as a partnership project to ensure these commitments can be met and</li> </ul>

<b>Financial and Economic Analysis</b>	
	<p>managed by the procuring entity and the Government.</p> <ul style="list-style-type: none"> <li>■ The Project Team should include explicit financial commitments in the assessment (i.e., regular availability payments) and implicit financial commitments (i.e., the cost of providing associated services) in addition to contingent liabilities arising from retained risks, such as guarantees, wage payments, and termination payments.</li> <li>■ The Project Team should take measures to minimize long-term financial commitments as part of this analysis.</li> <li>■ The Project Team should bear in mind that the Department of Finance will likely need to understand the following to approve the feasibility study for a candidate project: <ul style="list-style-type: none"> <li>◦ The impact of any required annual financial commitment.</li> <li>◦ The overall impact of the financial commitment on the candidate project's lifecycle.</li> </ul> </li> <li>■ Therefore, the Project Team should include this analysis in this section of the feasibility study.</li> </ul>
<b>Value for Money</b>	<ul style="list-style-type: none"> <li>■ Value for Money (VfM) analysis is a key factor in the decision-making process for procuring a specific project as a partnership project.</li> <li>■ The VfM analysis compares the risk-adjusted cost of traditional procurement of the project against a comparable partnership project and considers the project's lifecycle costs, benefits, and expected risk transfer.</li> </ul>



<b>Financial and Economic Analysis</b>	
	<ul style="list-style-type: none"> <li>■ A combination of quantitative and qualitative VfM analysis should be conducted throughout the procurement process.</li> <li>■ Please review Appendix 5.8 for further guidance on the VfM assessment methodology.</li> </ul>

The financial and economic analysis should include the following data outputs:

<b>Financial and Economic Analysis Outputs</b>	
<b>Cost and Revenue Benchmarking</b>	Presentation of supporting empirical benchmark cost data derived from databases including projects of the same size, complexity, and scope, and market analysis regarding any revenue-based assumptions if relevant.
<b>Financial Model</b>	Presentation of model outputs, including expected project returns shown in Net Present Value (NPV) and Internal Rate of Return (IRR), and the provision of summary financial information including ratio analysis provides a quantitative assessment of the financial viability of the partnership project to help the project team evaluate the partnership project, in addition to risk and sensitivity assessment for specific inputs affecting the project.
<b>Cost Data</b>	Presentation of capital expenditure, operating expenditure, and lifecycle sinking fund inputs if relevant, including associated cash flows/timeframes and underlying assumptions (all of which should be in the BCIS format).

#### **1.1.5.4 Transaction Structure**

The project team will develop a detailed transaction structure based on the preferred contracting model (the Transaction Structure).

Preparing the Transaction Structure is an iterative process, and it is recognized that adjustments and updates may be required from time to time before finalizing the feasibility study as a result of inputs from the financial and economic analysis, market sounding, or while drafting the key terms of the partnership agreement.

The Transaction Structure should include:

<b>Transaction Structure</b>	
<b>Commercial and Technical Affairs</b>	An overview of the key technical and commercial aspects, presented as an executive summary.
<b>Contracting Model</b>	<p>An explanation of the preferred contracting model including commercial and contractual analysis, including:</p> <ul style="list-style-type: none"> <li>■ Definition of "Key Performance Indicators" and "Availability Criteria".</li> <li>■ A list of all public and private sector participants.</li> <li>■ The proposed ownership model for the project or parts of it.</li> <li>■ The proposed commercial and contractual structure governing the relationship between participants, including their roles and responsibilities.</li> <li>■ The proposed payment mechanism.</li> <li>■ Details of risk allocation and analysis.</li> <li>■ The proposed key terms for the partnership agreement.</li> </ul>
<b>Regulatory Framework</b>	<p>A summary of the regulatory framework, including:</p> <ul style="list-style-type: none"> <li>■ An explanation of the relevant laws and regulations (and any exemptions that may be necessary).</li> <li>■ Required regulatory approvals.</li> </ul>

<b>Transaction Structure</b>	
<b>Financing</b>	Details of proposed financing considerations: <ul style="list-style-type: none"> <li>■ The proposed financing plan (describing private financing instruments and providers).</li> <li>■ The expected terms of this financing.</li> </ul>
<b>Timeline</b>	The proposed timeline for procurement and construction.

#### **1.1.5.5 Market Sounding**

It is recommended that the Project Team conduct a market sounding in a form determined by the team and include the findings as part of the feasibility study.

Market sounding provides an opportunity for the Project Team to understand the views, concerns, and suggestions of various market participants regarding the candidate project and its transaction structure (including its scope, size, and allocation of responsibilities) before the actual launch of the bidding process. It also enables interested parties to begin consortium formation discussions.

The main objectives of the market sounding process should be:

- To test the market appetite for the candidate project.
- To seek market validation of the key technical, legal, and commercial assumptions supporting the transaction structure.

ADIO may require appropriate non-disclosure agreements to be signed by private sector participants, which project teams must ensure, before disclosing any sensitive information regarding the candidate project.

Some candidate projects may not require a market sounding process, for example: if partnership projects of the same type have already been initiated according to the bidding process and/or have closed and/or if a market exists for previous projects, the project team may prefer not to conduct a market sounding. In such cases, the project team must state in the feasibility study that market sounding was not conducted and the reason for it.

#### **1.1.5.6 Procurement Plan**

The project team should develop a procurement plan that includes details of the process to be followed to manage and complete the bidding process.

The procurement plan should include:

- The proposed procurement schedule (defining the timeline for each stage of the bidding process).
- The estimated procurement budget.
- A summary of the bid documents.
- A stakeholder engagement plan.

The procurement plan should include detailed timelines regarding both the required approvals and the steps necessary to obtain them.

It is expected that the procurement plan included in the feasibility study will be of a general nature, but a detailed procurement plan must be developed before launching the bidding process.

During the bidding process, the project team should update the procurement plan as appropriate to reflect changes in the timeline or other material changes.

#### **1.1.5.7 Required Approvals**

The Abu Dhabi Investment Office and the procuring entity will approve the submission of the feasibility study to the relevant approving authorities regarding the financial elements only (i.e., the estimated whole-life costs of the project) for approval to enable the candidate project to proceed to procurement as a partnership project in accordance with Section 3.

The project team will manage the process of obtaining approval from the relevant competent authorities in coordination with the Abu Dhabi Investment Office and the procuring entity.

#### **1.1.5.8 Acceleration and Pre-qualification Process**

On an exceptional basis, the project team may request approval from the Abu Dhabi Investment Office to initiate a limited bidding process while awaiting final approval from the competent approving authority on the

relevant feasibility study, upon receipt of the first approval of the feasibility study and then submitting the feasibility study for final approval.

This limited bidding process may include:

- Preparation of bid management procedures.
- A marketing campaign.
- Issuing a request for Expression of Interest. and/or
- or issuing a Request for Qualifications.

## **Section Three: The Bidding Process**

### **2.0 The Bidding Process**

#### **2.1 Overview**

Section 3 outlines the steps and procedures to be followed in bidding, negotiating, and awarding contracts for the Partnership Project, in accordance with Article (9) of the Public-Private Partnership Law and Article (7) of the Regulations.

#### **2.2 Bidding Process Stages**

The Procurement Plan will define the stages of the bidding process and the proposed implementation timeline.

The Project Team must prepare the Bidding Documents, management procedures, and other relevant documents in accordance with this guide.

These documents shall include (as applicable):

#### **Bidding Process Documents**

- 1 Expression of Interest (EOI) (if any)
- 2 Request for Qualifications (RFQ) (unless it is part of the Request for Proposals)

Request for Proposals (RFP) structured as follows:

- 3
  - Volume I includes instructions to Bidders.
  - Volume II includes the Form Sheets.

- Volume III includes the Partnership Agreement.
- Volume IV includes the Procuring Entity's technical requirements.

4 Best and Final Offer (BAFO) (if applicable)

5 Letter of award to the Preferred Bidder and notification to the Reserve Bidder and unsuccessful Bidders

Bid management procedures including:

- Bid opening procedures for responses to the Statement of Qualifications (SOQ), RFQ, and BAFO, if selected at the RFP stage.
- Evaluation criteria and methodology for responses to the SOQ, RFQ, and BAFO, if selected at the RFP stage.

## **2.3 Optional Bidding Procedures**

### **2.3.1 Summary of Optional Procedures**

The marketing campaign, pre-bid conference, and Expression of Interest stages of the bidding process are optional procedures available to the Project Team.

The adoption of these optional procedures must be determined in the Procurement Plan before the bidding process begins. These optional procedures are recommended unless there is a valid reason not to include them as part of the bidding process (e.g., there is a known limited pool of bidders or a limited timeframe available for the bidding process).

### **2.3.2 Marketing Campaign**

The Project Team should plan and execute a targeted marketing campaign, if included as part of the Procurement Plan, once the relevant Competent Authority approves the Feasibility Study and the bidding process is launched. This may include roadshows, market sounding sessions with potential applicants (and other relevant parties), and appropriate advertising in national, regional, and international trade journals, websites, etc.

Marketing campaigns should target:

- Potential investors, lenders, and contractors at the Abu Dhabi and global levels.
- Interested government stakeholders.
- The general public to build project awareness.

### **2.3.3 Pre-Bid Conference**

The Project Team is entitled to schedule a pre-bid conference or meeting before issuing the RFQ and/or EOI (if necessary), which is available to all interested parties, in order to:

- Explain the main features of the Partnership Project.
- Clarify the bidding process.
- Provide an opportunity for interested parties to submit their questions or inquiries to the Project Team about the foregoing.

The purpose of the pre-bid conference should be to ensure that potential applicants are fully aware of the main features of the Partnership Project and the bidding process to enable them to gauge and secure the required bid resource requirements (including the extent of any required consortium formation) so they can respond to the RFQ (or EOI, as applicable) in a timely manner and with a compliant Statement of Qualifications (or response to the EOI).

### **2.3.4 Expression of Interest (EOI)**

The EOI should provide a "high-level" description of the main features of the Partnership Project and the bidding process, if included as part of the Procurement Plan. It should also identify the government stakeholders and the EOI timeline, along with any other relevant details necessary for interested parties to ascertain whether the project falls within their interest.

The EOI should request responses by a specific date, be issued to a comprehensive list of potential applicants, and be formally advertised in the following media (at the discretion of the Abu Dhabi Investment Office):

- The Procuring Entity's website and circulars.

- The Abu Dhabi Investment Office's website and social media.
- Local press.
- Relevant local, regional, and international specialized press and periodicals.

## **2.4 Mandatory Bidding Procedures**

### **2.4.1 Overview**

The RFQ and RFP stages are mandatory procedures and must be issued sequentially. However, in exceptional circumstances, the Project Team is entitled to request the approval of the Abu Dhabi Investment Office to manage the RFQ stage as part of the RFP stage if the characteristics of the Partnership Project indicate that it is appropriate to expedite the bidding process and that the pool of bidders is known to the Project Team (e.g., a recurring project).

There should be no interaction or communication between the Project Team and the private sector during the RFQ, RFP, and evaluation stages, except as described in Section 3.

### **2.4.2 Request for Qualifications (RFQ)**

The Project Team will conduct an RFQ stage (either as part of the RFP process, if approved by the Abu Dhabi Investment Office, or as a separate process before the RFP process) to evaluate applicants in order to shortlist potential bidders. If the RFQ templates form part of the RFP described in paragraph 2.4.2, they must be amended and integrated as appropriate by the Project Team in consultation with the Abu Dhabi Investment Office and the Procuring Entity.

#### **2.4.2.1 Steps of the RFQ Process**

The RFQ should be prepared according to the following steps:

##### **Steps of the RFQ Process**

- 1 Define qualification criteria



- 2 Prepare the evaluation methodology to be used to evaluate applicants and to shortlist bidders, and the bid opening procedures
- 3 Prepare the RFQ documents for submission to potential applicants
- 4 Review and evaluate the received responses (Statements of Qualifications)
- 5 Prepare a shortlist of qualified applicants

#### 2.4.2.2 RFQ Requirements

The issued RFQ must include the following:

##### **RFQ Requirements**

- 1 Be issued in English and require the submission of Statements of Qualifications in English as well
- 2 Describe the Partnership Project opportunity, the Procuring Entity's expectations, the project location, and other relevant project characteristics
- 3 Provide the RFQ timeline and the preliminary RFP timeline, both allowing a reasonable period for applicants/bidders to prepare and submit a compliant Statement of Qualifications and/or proposal, as determined by feedback during any market sounding and pre-bid conference, with the aim of avoiding requests from applicants/bidders to extend the timeline for the Statement of Qualifications or proposal, respectively
- 4 Provide instructions on the required format and an email/website address for submitting the Statement of Qualifications and supporting materials
- 5 Provide a single point of contact for applicant inquiries and clarifications
- 6 Describe the clarification process before submitting the Statement of Qualifications, including protocols associated with receiving and

responding to clarifications, the schedule for submitting clarifications, and the timeline for receiving responses

- 7 Define the qualification process, evaluation criteria, and evaluation methodology, and describe the Project Team's methodology when evaluating each of the accepted Statements of Qualifications
- 8 Describe the contracting model and any other commercial or contractual details relevant to the RFQ
- 9 Clarify that costs incurred by applicants in preparing and submitting Statements of Qualifications will not be borne by the public sector unless explicitly stated otherwise in the RFQ
- 10 Include rules regarding the formation of consortia, restrictions on applicant eligibility, and statements on conflicts of interest
- 11 Clarify that the Project Team may amend, change, or terminate the RFQ and the entire bidding process at any time and for any reason, and will not be liable for any costs to the applicant unless explicitly stated otherwise in the RFQ.

The Project Team must open the Statements of Qualifications in accordance with the applicable bid opening procedures and review them according to the applicable evaluation methodology, as specified in the RFQ.

The Project Team will complete and submit the SOQ evaluation report (which includes the final recommended list of bidders) to the Abu Dhabi Investment Office for its review.

The Abu Dhabi Investment Office will review the SOQ evaluation report and submit its recommendations to:

- Approve the SOQ evaluation report.
- Announce the list of pre-qualified bidders.
- Issue the RFP.

A minimum of three bidders are required to issue the RFP. If fewer than three potential bidders are pre-qualified, the Project Team may choose from the following two options:

Option One: Amend and re-issue the RFQ requirements and secure the minimum number of bidders to issue the RFP.

Option Two: Prepare a report explaining the results of the RFQ process, including a recommendation to proceed with issuing the RFP to fewer than three bidders, specifying:

- Clear justifications and rationales.
- The steps the Project Team will take to maintain Value for Money.

The Project Team may proceed with issuing the RFP to fewer than three bidders, subject to the approval of the Director General of the Abu Dhabi Investment Office and the Head of the Procuring Entity.

### **2.4.3 Request for Proposals (RFP)**

The Project Team will execute the RFP stage in accordance with the bidding process guidelines with the ultimate goal of selecting a Preferred Bidder.

#### **2.4.3.1 Steps of the RFP Process**

The RFP should be prepared according to the following steps:

##### **Steps of the RFP Process**

- 1 Prepare the RFP documents for issuance to shortlisted bidders
- 2 Establish bid opening procedures and an evaluation methodology to be used in evaluating the proposals
- 3 Hold bidder conferences and arrange for site visits
- 4 Review and evaluate the responses to the RFP
- 5 Prepare the bid evaluation report for presentation to the Bid Evaluation Committee

### 2.4.3.2 RFP Requirements

The issued RFP must contain the appropriate level of detail specific to the type of Partnership Project and shall include the following requirements:

#### **RFP Requirements**

- 1 Be issued in English and require the submission of proposals in English as well
- 2 Describe the role of the Abu Dhabi Investment Office in the competitive process and detail how proposals will be evaluated
- 3 Provide the RFP timeline
- 4 Provide an overview of the project due diligence process, and the availability of data or reference materials, including access to a data room or other resources
- 5 Describe the clarification process before bid submission, including protocols associated with receiving and responding to clarifications, the number of clarification rounds, the timeline for submitting clarifications and receiving responses, and the circulation of clarifications after bidder conferences
- 6 Indicate the law applicable to the transaction, including any decrees, orders, laws, rules, and/or regulations
- 7 Provide instructions on the required format and an email/website address for submitting proposals and supporting materials
- 8 Provide a single point of contact within the Project Team
- 9 Provide a single point of contact within the Bidder
- 10 Clarify that costs incurred by Bidders in preparing and submitting RFPs will not be borne by the public sector
- 11 Clarify that the Project Team may amend the RFP and the procurement at any time and for any reason, and will not be liable for any costs incurred by the Bidder.

12 Unless with the consent of the Project Team, contact is prohibited between (1) Bidders, (2) Bidders and government officials, and/or (3) Bidders and key stakeholders in the bidding process, and clarify the permissible communication during the bidding process, and provide a confidentiality agreement for signature by all Bidders, with the approval of the Project Team.

13 Prohibit collusion in procurement, conflicts of interest, bribery, and/or any corrupt conduct. Clarify that Bidders must confirm their compliance, noting the penalties or restrictions applicable to violations.

14 Clarify how Bidder materials and intellectual property received by the Abu Dhabi Investment Office will be handled

15 Describe the evaluation criteria and methodology related to the bids, detailing the financial and technical requirements along with the overall evaluation process

16 Prohibit and exclude Bidders for misrepresentation and fraudulent conduct in the bidding process and the Bidder's proposal

17 Specify any requirement for a bid bond or other forms of bidder guarantees

18 Specify whether the government will be a co-investor in the project's special purpose vehicle or not

19 Describe the Partnership Project opportunity, the Procuring Entity's expectations, the project location, and other relevant project characteristics

20 Describe the contracting model and any other commercial or contractual details relevant to the RFQ

21 Include Form Sheets for Bidder responses in the prescribed format

22 Include bid opening procedures

## **2.4.4 Form of Partnership Agreement**

The RFP will also be accompanied by a template Partnership Agreement for the Partnership Project. The Partnership Agreement will be prepared by the Abu Dhabi Investment Office and will include, in accordance with Article (9) of the Public-Private Partnership Law, a number of matters including:

- Term of the concession.
- Proposed payment mechanism.
- Key performance indicators (KPIs) and deduction regime.
- Termination arrangements.
- Performance security requirements.
- Refinancing arrangements.
- Relief mechanisms.
- Transfer restrictions.
- Output specifications.
- Emiratization requirements.
- Construction and operation phase obligations.
- Construction completion arrangements (including provisions for delay consequences).
- All other provisions required under Article (12) of the Public-Private Partnership Law.

## **2.4.5 Bidder Conferences**

### **2.4.5.1 Overview**

The Project Team may schedule one or more bidder conferences or meetings (depending on the complexity of the Partnership Project).

If the Project Team deems it appropriate, it may host a bidder conference or meeting before issuing the RFP, available to the bidders selected in the qualification stage, to provide an overview of the main features of the Partnership Project and details of the matters expected to be included in the RFP by the shortlisted bidders.

It is recommended that the Project Team host a bidder conference or meeting for all Partnership Projects shortly after the RFP is issued to provide the following to the shortlisted bidders:

- An overview of the Partnership Project.
- An overview of the RFP documents and key bid requirements (including relevant deadlines and the timeline).
- An explanation of any complex aspects of the Partnership Project.
- Clarification regarding any inquiries or questions bidders may have at that time.
- Guidance on disclosed data.

The purpose of all bidder conferences or meetings is to ensure they understand the bid objectives, bid requirements, bidding documents, and procurement timeline, so that the quality of their proposals is improved.

#### **2.4.5.2 Bidder Conference Protocols**

Attendance at bidder conferences or meetings should be limited to shortlisted applicants and any members of their consortium, including their specialist advisors.

The content presented at bidder conferences should be limited to commercial, technical, and legal information:

- Included in the bidding documents.
- Or the subject of clarifications or addenda issued under the RFP.

No additional financial information regarding the Partnership Project may be disclosed in any material shared with bidders at the conferences under any circumstances.

The Project Team must circulate a record of the questions raised and answered at the conference to the potential bidders after the bidder conference.

#### **2.4.6 Site Visits**

If government-owned land or facilities are included as part of the candidate project, the Project Team may (if necessary) arrange and

coordinate site visits before the bid submission date. Bidders will be given the opportunity to visit all or part of the sites to investigate and familiarize themselves with the relevant terms and conditions.

Potential bidders are entitled to request access to the sites for the purpose of conducting their own additional and subsequent studies and investigations. These requests must be submitted to the Project Team, which will accommodate these requests and schedule visits as it deems appropriate.

Site visits shall be conducted in accordance with the timeline and procedures specified by the Project Team.

#### **2.4.7 Clarifications and Addenda**

The Project Team will seek to respond promptly and in sufficient detail to all clarifications submitted by potential bidders in accordance with the terms of the RFP.

If the Project Team or the Abu Dhabi Investment Office decides that the structure or terms of the Partnership Project should be amended (as a result of the clarification process or otherwise) after the RFP in accordance with Article (10) of the Public-Private Partnership Law, the Project Team must:

- Proceed with issuing an addendum to the bidders clarifying this amendment, if this amendment is limited to a clarification, correction of an error, or an update to a non-material aspect of the Partnership Project (not affecting the conclusions contained in the Feasibility Study).
- Proceed with issuing an addendum to the bidders clarifying this amendment, where the amendment can be considered to have a material effect on the Partnership Project (affecting any of the conclusions contained in the Feasibility Study), and actively engage with all relevant approving bodies to obtain approval for this amendment only upon receiving such approval.

Clarifications and responses are published to all bidders to ensure transparency.



## **2.5 Bid Evaluation**

### **2.5.1 Overview**

Received bids are opened in accordance with the applicable bid opening procedures as described in the RFP and evaluated by:

- The Project Team (primarily).
- The Bid Evaluation Committee.

The Bid Evaluation Committee must consist of representatives from the Abu Dhabi Investment Office and the Procuring Entity. A representative from the Abu Dhabi Investment Office will lead the Bid Evaluation Committee and will have the authority to make final decisions on all matters decided by the Bid Evaluation Committee, and will retain the task of overseeing the Bid Evaluation Committee.

The Project Team and the Bid Evaluation Committee will apply the evaluation criteria and methodology, including any scoring procedures, as set out in the RFP.

The entire bid evaluation process must be documented, and the Project Team and the Bid Evaluation Committee will adopt transparent and compliant evaluation procedures.

The Project Team will be primarily responsible for evaluating all bids in accordance with paragraph 2.5.1, but the Project Team may not take any step to pass or fail any of the bidders without obtaining the approval of the Bid Evaluation Committee.

### **2.5.2 Summary of Processes**

The bid submission and evaluation process follows a two-envelope, two-step evaluation process, whereby the technical proposal and financial proposal for each bid are submitted in two separate sealed envelopes and are opened and evaluated sequentially, unless otherwise specified by the Abu Dhabi Investment Office.

The Abu Dhabi Investment Office may from time to time choose to use different bid submission and evaluation processes after determining them to be the most suitable for a particular Partnership Project, including, but

not limited to, a single-envelope system with parallel evaluation of technical and financial proposals. Notwithstanding that the two-envelope system is expected to be the prevailing approach, the submission and evaluation process for each Partnership Project will be described in the RFP.

Received bids will be subject to a two-step evaluation process as follows, unless otherwise stated in the RFP or permitted by the Abu Dhabi Investment Office:

### **Bid Evaluation Process**

Technical proposals will be opened first, examined, and evaluated for compliance, then evaluated and ranked by the Project Team according to the agreed evaluation criteria and methodology (as set out in the RFP).

#### **Technical Evaluation**

- If the technical proposal is compliant and passes the technical evaluation, the bid is eligible to proceed to the second step of the evaluation process.
- The Project Team may communicate with bidders for the purpose of clarifying any aspect of the technical proposal that is unclear.
- If the proposal does not pass the technical evaluation, the technical proposal along with the unopened envelope containing the bidder's financial proposal will be returned to the respective bidder, subject to the approval of the Bid Evaluation Committee.
- The Project Team may choose to interview the bidder to clarify any aspect of the submitted technical proposals as part of the evaluation process.
- Bidders may be required to give a formal presentation during the technical interview. The presentation must be in English using Microsoft PowerPoint (or any other medium specified by the Project Team) and may be followed by a Q&A session during which bidders will be asked to

Financial Evaluation	<p>answer any questions related to their technical proposal.</p> <ul style="list-style-type: none"> <li>• The Abu Dhabi Investment Office will have the right to reject any proposal where the bidder's technical proposal does not match and comply with the requirements of the relevant Approving Competent Authority.</li> <li>• Upon passing the technical evaluation, the bidder's financial proposal will be opened, evaluated, and ranked according to the agreed evaluation criteria and methodology as set out in the RFP.</li> <li>• The evaluation will include a benchmark comparison of each proposal with the Public Sector Comparator (PSC) and a Value for Money test, and the financial and economic assumptions prepared and adopted as part of the Feasibility Study.</li> <li>• The Abu Dhabi Investment Office will have the right to reject any proposal where the bidder's financial proposal does not match and comply with the requirements of the relevant Approving Competent Authority, including any of the financial models, which bidders are expected to duly complete and submit as part of their financial proposals.</li> </ul>
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### 2.5.3 Bid Evaluation Report

The Project Team must prepare a Bid Evaluation Report after receiving the proposals, which includes:

- The separate results of the technical and financial evaluation (and the resulting overall ranking of the proposals).
- A recommendation to notify the highest-ranked bidder and grant them the status of Preferred Bidder or to use the Best and Final Offer (BAFO) procedure.

- A recommendation to notify the second-highest bidder and grant them the status of Reserve Bidder (Reserve Bidder).

The Project Team will submit the Bid Evaluation Report to the Bid Evaluation Committee, which will review the report and respond in writing stating that it:

- Agrees with the findings in the Bid Evaluation Report.
- Does not agree with the findings in the Bid Evaluation Report, in which case it will provide comments and reasons and request the Project Team to revise the Bid Evaluation Report accordingly.

Once the Bid Evaluation Report is finalized, the Bid Evaluation Committee will authorize the Project Team to take one of the following actions:

- If the financial proposal of the highest-ranked bidder has improved according to the financial criteria set out in the Public Sector Comparator model and there is no qualitative reason not to recommend awarding the Partnership Project to the highest-ranked bidder, the Bid Evaluation Report is submitted to the relevant Approving Competent Authority, with a recommendation to issue the Letter of Award to the Preferred Bidder (and to notify the Reserve Bidder and unsuccessful bidders).
- If the financial proposal of the highest-ranked bidder has not improved according to the financial criteria set out in the Public Sector Comparator model, the proposal is analyzed in the context of the qualitative factors associated with the Partnership Project, and the Bid Evaluation Report is submitted to the Abu Dhabi Investment Office, along with a recommendation to either:
  - Issue a Letter of Award to the Preferred Bidder (and notify the Reserve Bidder and unsuccessful bidders).
  - Or use the Best and Final Offer procedure according to paragraph 2.5.4.
  - Or cancel the Partnership bidding procedure.

The Project Team will have the flexibility to notify bidders of the bid evaluation results simultaneously or in a staggered manner.

## 2.5.4 Best and Final Offer (BAFO)

The Best and Final Offer (BAFO) procedure may be used in exceptional circumstances as recommended by the Bid Evaluation Committee and where one or more of the following criteria are met:

### BAFO Requirements

- 1 The bids submitted by two or more bidders are materially the same, and the Bid Evaluation Committee believes that a BAFO process will allow for differentiation between the bids.

- 2 There are aspects of some or all of the bidders' financial proposals that appear financially unsustainable or do not achieve Value for Money.

- 3 There are commercial or legal aspects of the RFP that have been raised as issues/deviations in the submitted bids which require clarification to ensure the accuracy and improvement of the financial proposals.

If used, the BAFO procedure will require bidders to resubmit the financial and/or commercial aspects of their proposals for review.

For the avoidance of doubt, a technically and financially compliant bidder is not obliged to participate in the BAFO process. However, their current offer at the time of launching the BAFO process will be considered valid and will be included in the BAFO bid report.

The Project Team will prepare a BAFO bid report (by updating the Bid Evaluation Report) to show the results of the BAFO evaluation and recommendations regarding the award to and notification of bidders (BAFO Bid Report).

The Project Team will submit its BAFO Bid Evaluation Report to the Bid Evaluation Committee, which will authorize the Project Team to either:

- Issue a Letter of Award to the Preferred Bidder (and notify the Reserve Bidder and unsuccessful bidders).
- Or cancel the bidding process.

## 2.6 Award to the Preferred Bidder

### 2.6.1 Overview

Upon receipt of approval of the Bid Evaluation Report (or BAFO Bid Report, as applicable) and its recommendations from the relevant Approving Competent Authority, the Project Team may proceed to notify the bidders and take the actions described in this section.

### 2.6.2 Bidder Notification

The Project Team will take the following action, unless otherwise directed by the Abu Dhabi Investment Office:

#### **Bidder Notification Procedures**

Preferred Bidder

- The Project Team will issue a Letter of Award to the Preferred Bidder to formally appoint the first-ranked bidder as the Preferred Bidder.
- The Preferred Bidder will be announced on the websites of the Procuring Entity and the Abu Dhabi Investment Office.
- The Project Team will seek to finalize the terms of the Partnership Project with the Preferred Bidder to sign the Partnership Agreement and any other required agreements with the Preferred Bidder.
- The Project Team may enter into final negotiations with the Preferred Bidder where there is a clear opportunity to improve the terms and conditions of the Preferred Bidder's offer and/or enhance Value for Money.

Reserve Bidder

- The Project Team will issue a letter to the Reserve Bidder to formally appoint the second-ranked bidder as the Reserve Bidder.
- If the Project Team is unable to finalize the terms of the Partnership Project with the Preferred Bidder, the Project Team is entitled to enter into final negotiations with the Reserve Bidder, finalize the terms of the Partnership Project once compliant, and sign the Partnership Agreement with the Reserve Bidder, where a clear opportunity exists to improve the terms and conditions of the Reserve Bidder's offer.
- If the Project Team is unable to finalize the terms of the Partnership Project with the Reserve Bidder, the Project Team will issue a letter to the Reserve Bidder formally notifying them that they have become an unsuccessful bidder (see below).

#### Unsuccessful Bidders

The Project Team will issue a letter to all other bidders (other than the Preferred Bidder and the Reserve Bidder) to formally notify them that their bid was unsuccessful (Unsuccessful Bidders).

Unsuccessful Bidders should be required in such notification to immediately release their supporting parties from any obligations regarding the Partnership Project and notify the Project Team thereof. The Project Team will work to return the bid security bond to the unsuccessful bidder after receiving the notification.

The Project Team may choose to invite unsuccessful bidders to meet with the Project Team to discuss the reasons why their bids were unsuccessful.

### **2.6.3 Final Feasibility Study**

The Project Team will immediately update the Feasibility Study to reflect the actual technical and commercial outcomes arising from the conclusion of the negotiation phase, upon completion of all negotiations.

The Final Feasibility Study will:

- Update all project-related information (needs, benefits, risk allocation, etc.), financial information (including cost inputs, revenues, financial models, etc.), economic factors (inflation rate, currency exchange, cost of energy, etc.), and technical information (project outputs, quality, etc.), and clarify that all information is complete and up-to-date, to the best of the Project Team's knowledge, at the time of submitting the Final Feasibility Study to the relevant Approving Competent Authority.
- Update the Value for Money analysis.
- Update the description of the Partnership Agreement to reflect any changes in the contract structure and payment mechanism from those anticipated at the RFP stage.
- Attach the agreed form of the Partnership Agreement and related documents (including any direct agreements).

The Abu Dhabi Investment Office will authorize the Project Team to submit the Final Feasibility Study for approval by the relevant Approving Competent Authority. The Procuring Entity is authorized to enter into the Partnership Agreement as the counterparty, after approval of the submission of the Final Feasibility Study.

In the event that any further negotiations are conducted with the Preferred Bidder (or the Reserve Bidder, as the case may be) after the preparation of the Final Feasibility Study has begun, the Project Team will be required to obtain another confirmation that the negotiations have concluded and update the final business case accordingly.



## **2.6.4 Commercial Close**

The Direct Procuring Entity is entitled to sign the Partnership Agreement provided that the following minimum conditions are met:

- All required approvals are granted prior to the signing of the Partnership Agreement by the relevant Approving Competent Authority.
- All Partnership Project documents are updated and aligned with the Final Feasibility Study.
- Any additional conditions included in the Letter of Award or otherwise imposed by the Abu Dhabi Investment Office are met.

Bid bonds for the Preferred Bidder and the Reserve Bidder may not be released until the Partnership Agreement is concluded and signed, and in the case of the Preferred Bidder, any bonds required under the Partnership Agreement must be issued if the Partnership Agreement so requires.

## **2.6.5 Financial Close**

Financial Close can be achieved when all project and financing agreements are met and signed (either concurrently with or after the signing of the Partnership Agreement). This stage will enable the effective implementation of the Partnership Project with the availability of financing resources. The following conditions must be met for Financial Close to be achieved:

- Confirmation from lenders (if any) and shareholders that all pre-funding requirements have been complied with or waived.
- The financial model is updated for permitted adjustments.
- The Partnership Agreement (only if it needs to be amended to reflect permitted adjustments in the financial model) and related documents are updated, and the amendments are signed by the Procuring Entity and the Project Company.
- Confirmation from lenders and shareholders that all pre-funding requirements have been complied with or waived.
- Funds are available to the Project Company.

## **2.6.6 Handover from Project Team to Contract Management Team**

The Abu Dhabi Investment Office and the Project Team will support the Procuring Entity in transferring the knowledge of the Partnership Project gained during the structuring and due diligence phase, and the bidding process to the Contract Management Team (appointed in accordance with paragraph 3.4).

The Contract Management Team must support the Project Team in achieving Commercial and Financial Close, if possible. Once Financial Close is achieved, the role of the Project Team ends and the team can be dissolved.

## **Section Four: Contract Management**

### **3.0 Contract Management**

#### **3.1 Overview**

Section 3 (to be read in conjunction with Appendix 4.8) sets out the principles and processes of transaction management that Procuring Entities must implement to manage the Partnership Agreement and the Partnership Project after reaching Commercial and Financial Close, as applicable.

#### **3.2 Roles and Responsibilities**

The Procuring Entity has the primary responsibility for managing the Partnership Agreement after Commercial and Financial Close, as applicable. The Procuring Entity shall coordinate its actions and activities with the Abu Dhabi Investment Office (ADIO) while doing so, as set out in Chapter 3.

Given ADIO's overall responsibility for overseeing Partnership Projects, the Procuring Entity must notify, consult with, and, where necessary, obtain written approval from ADIO before taking an action or exercising a right under the Partnership Agreement (or related contracts) in respect of the aspects outlined in the table below.

The Contract Management Team must ensure that relevant matters are escalated for approval in a timeframe that allows the Procuring Entity to

comply with its obligations under the Partnership Agreement (or related contracts).

Approval	Consultation	Information	Action	
No	No	Yes	[Acceptance] of Construction Completion / Operations Commencement	1
No	No	Yes	Receipt / agreement of delay claim (less than 30 days) by Project Company	2
Yes	Yes	Yes	Receipt / agreement of delay claim (more than 30 days) by Project Company	3
No	No	Yes	Receipt / agreement of financial claim (less than AED 50k) by Project Company	4
Yes	Yes	Yes	Receipt / agreement of financial claim (more than AED 50k) by Project Company	5
Yes	Yes	Yes	Approval of Project Company debt refinancing	6
N/A	Yes	Yes	Awareness of Project Company insolvency	7
No	Yes	Yes	Awareness of a default by the Project Company	8
No	Yes	Yes	Awareness of a default by the Procuring Entity	9
No	Yes	Yes	Receipt of a notice of default from the Project Company	10
No	Yes	Yes	Occurrence of a dispute	11
Yes	Yes	Yes	Resort to formal dispute resolution (e.g., courts, arbitration, etc.)	12

Approval	Consultation	Information	Action	
Yes	Yes	Yes	Settlement of formal dispute proceedings	13
Yes	Yes	Yes	Sending a notice of default to the Project Company	14
Yes	Yes	Yes	Acceptance of asset handover	15
Yes	Yes	Yes	Renegotiation / amendment of the Partnership Agreement / other key contracts	16
Yes	Yes	Yes	Signing of additional material contracts related to the Partnership Agreement	17
Yes	Yes	Yes	Material amendments to project specifications	18
Yes	Yes	Yes	Approval of change in ownership of Project Company / key party	19
Yes	Yes	Yes	Approval of assignment or novation of the Partnership Agreement / key contract	20
N/A	Yes	Yes	Receipt of key notice from project lenders	21
N/A	Yes	Yes	Receipt of termination notice for the Partnership Agreement by the Project Company	22
Yes	Yes	Yes	Service of termination notice for the Partnership Agreement by the Procuring Entity	23

### 3.3 Additional Reporting Requirements

The Procuring Entity is obliged to provide ADIO with the following reports during the contract management phase:

Reporting Requirements	
A quarterly report setting out key developments and issues that arose in that quarter shall be submitted within 30 calendar days of the end of each quarter of the contract term.	Quarterly Reports
<p>An annual report setting out the following shall be submitted within 30 calendar days of the end of each contract year:</p> <ul style="list-style-type: none"> <li>• Key developments and issues that arose in that year.</li> <li>• An updated version of the Final Business Case financial model in which previously forecasted or estimated figures for the reporting period have been replaced with actual figures.</li> </ul>	Annual Reports
<p>A list comparing the following shall be submitted within 30 calendar days of the end of each contract year:</p> <ul style="list-style-type: none"> <li>• All committed obligations actually paid during the reporting period plus current exposure levels for any contingent liabilities.</li> <li>• The amounts originally forecast for committed obligations and the expected levels of contingent liabilities.</li> </ul>	
Copies of any periodic reports on the status of the project received from the Project Company or prepared by the Procuring Entity, as soon as they are received or prepared.	Ad-hoc Reports

### 3.4 Contract Management Team

The Procuring Entity shall appoint a contract management team (the Contract Management Team) to oversee the implementation and operation of the Partnership Project and to coordinate with the Project Company, the Project Team, and various stakeholders, as soon as is practicably possible after the preferred bidder is announced, and in any event at least 30 calendar days before the Commercial Close of the project. The Contract Management Team will act in accordance with the contract management principles set out in Appendix 5.8.

The size and structure of the Contract Management Team will depend on various aspects, including the level of commitments and risks borne by the

Procuring Entity and the overall complexity of the relevant Partnership Project.

The Procuring Entity, after considering the above, will need to determine the required skills within the Contract Management Team, and what expertise can be drawn upon from external advisors or other government entities. The Procuring Entity should consider the following when doing so:

- Consider the scope of the Procuring Entity's role in managing the specific Partnership Agreement.
- Determine the size of the Contract Management Team based on the nature of the project and the availability of external resources.
- Ensure the Contract Management Team has an appropriate governance structure, and the skills and competencies required for the project.
- Plan the establishment of the Contract Management Team before Commercial Close.
- Engage external advisors where needed and ensure the transition between advisors is managed effectively.
- Continuously assess the Contract Management Team's structure and resources and make adjustments as necessary.
- Plan for staff turnover and ensure appropriate knowledge continuity management procedures are in place.

### **3.5 Contract Management Team Training**

The Procuring Entity should plan for both initial and ongoing training for the Contract Management Team and ensure that relevant staff have the appropriate experience and understanding of their role in the team.

The Contract Management Team may require training in the following areas in relation to Partnership Projects generally and the specific Partnership Agreement:

- Mobilisation, transfer, and handover of assets at the end of the contract term.
- Performance monitoring.
- Payment mechanisms and their application.
- Financial models and project finance.
- Stakeholder and helpdesk management.
- Claims management.
- Contract scope, change or variation management.
- Dispute resolution mechanisms and management.
- The Partnership Agreement and all relevant time periods.
- Risk allocation and the implications of the specific delivery model for the project.

- All other aspects related to the application of the contract (e.g., relevant notice periods).

Members of the Contract Management Team may also require general contract management training, such as:

- Project management.
- Risk management.
- Commercial skills.
- Problem solving and negotiation skills.
- Health, safety and environment management.
- Data and information collection management.
- Effective communication planning.
- Fostering a successful partnership between the different parties.

### **3.6 Contract Management Manual**

The Contract Management Team must prepare a manual for use as a reference guide for managing and monitoring the contract, including monitoring and evaluating contract performance and the day-to-day administration of the project (the Contract Management Manual), with input from the Project Team as needed. The Contract Management Manual should include, as a minimum, the following:

- An overview of the Partnership Agreement, including key terms and conditions.
- A stakeholder management and communication plan.
- Process charts of the contract and governance procedures.
- Specific audit and reporting procedures and requirements.
- A schedule of all project documentation.

The Contract Management Manual should be reviewed by the Procuring Entity on an ongoing basis. In addition, the following specific events should be considered:

- A divergence between each party's expectations and the actual project outcomes.
- Changes to the project itself through change events, contingency events or as a result of transitioning from one phase to another in the project's lifetime.
- Changes in the operating environment.

## Section Five: Appendices

### 4.0 Appendices

#### 4.1 Table of Abbreviations

Abbreviations	
Abu Dhabi Investment Office	ADIO
Best and Final Offer	BAFO
Building Cost Information Service	BCIS
Capital Expenditure	CAPEX
Department of Finance	DoF
Abu Dhabi Executive Council	EC
Expression of Interest	EoI
Internal Rate of Return	IRR
Lifecycle Sinking Fund	LCSF
Net Present Value	NPV
Operating Expenditure	OPEX
Public-Private Partnership	PPP
Public Sector Comparator	PSC
Request for Proposals	RfP
Request for Qualifications	RfQ
Shadow Bid Model	SBM
Statement of Qualifications	SoQ
Unsolicited Proposal	USP
Value for Money	VfM



## 4.2 Glossary

### Glossary

The code of professional conduct published by ADIO on its website from time to time	ADIO Code of Professional Conduct
A company or consortium of companies that responds to an RfQ	Applicant
A type of Contracting Model structured specifically to enable the monetization of existing public sector investments to the private sector that amounts to either an outright sale of the asset to the private sector or a certain right granted to the private sector for a term no longer than the concession itself. This contracting model is characterized by the public sector entering into a long-term contract with the private sector that regulates, among other things, the allocation of risk and responsibilities between the parties, regardless of whether the public sector retains legal ownership of the asset or not	Asset Monetization
Bids submitted indicating that no further negotiations on the amount or terms are possible	Best and Final Offer (BAFO)
An applicant who has met the qualification conditions stated in the RfQ (where issued) and/or has been pre-qualified by ADIO to receive the RfP or bid for the project	Bidder
A full feasibility study prepared for submission to the relevant Approving Authority to obtain approval to proceed with a Candidate Project as a Partnership Project	Business Case
Any project that meets the criteria of a Partnership Project as outlined in the PPP Manual and which has been identified by ADIO as a potential Partnership Project	Candidate Project
The code of business ethics, as set out in Appendix 5.3	Code of Business Ethics
The date on which the Partnership Agreement is signed (or concluded by way of a letter of award), and to the extent that the effectiveness of the Partnership Agreement is conditional upon receipt of approvals from the relevant Approving Authority, such approvals having been issued and the conditions to such approvals having been satisfied	Commercial Close

## Glossary

As defined in the paragraph of this Manual.	Concept Report
A form of contracting model developed for a Partnership Project during the transaction structuring phase as described in Chapter Two, paragraph 1.1.5.4 which falls within the scope and coverage of the Procurement Framework	Contracting Model
A document issued by ADIO to ascertain market interest in a Partnership Project which includes general descriptions of the Partnership Project with a clear description of the selected Contracting Model along with the timeline for expression of interest (as a minimum) and any other relevant details	Expression of Interest (EoI)
Any approval granted by the Executive Committee of the Executive Council, the Executive Council or any other relevant Approving Authority as applicable, as summarized below in Figure 1: Stages of a Candidate Project / Partnership Project	Final Approval
An update to the Business Case upon completion of all negotiations with the preferred bidder or, as the case may be, the reserve bidder as described in paragraph 2.6.3	Final Business Case
The date on which the financing agreements required to finance all or a substantial portion of the capital cost of the Partnership Project have been signed, become fully effective, and the required funds are committed thereunder	Financial Close
Any approval from the Director General of ADIO, the Chairman of the Procuring Entity, the Chairman of the Department of Finance or any other relevant approving body as applicable at key stages of the Partnership Project process as outlined in Figure 1: Stages of a Candidate Project / Partnership Project	First Approval
Any form of financial commitment from the Government, the Procuring Entity and any other government entity, whether contingent or unconditional, made or to be made in respect of a Partnership Project and whether under the Partnership Agreement or associated documents entered into in connection with the Partnership Project	Financial Commitments
The Government of Abu Dhabi	Government
This Public-Private Partnership Projects Manual	The Manual

## Glossary

Services such as planned maintenance, preventive maintenance, reactive maintenance, and lifecycle management of buildings and assets (including management of all future replacements of built assets, building components and equipment)	Hard Facilities Management
First Approval and/or Final Approval as illustrated in Figure 1: Stages of a Candidate Project / Partnership Project	Key Stage Approvals
The total cost of all future periodic replacements of built assets, building components and equipment that reach the end of their expected economic life during the Partnership Agreement, which is separate from the cost of day-to-day facilities management, operations and maintenance or OPEX (including soft facilities management, such as cleaning, security, and hard facilities maintenance such as planned and preventive maintenance, and reactive management, and facilities management which can be described together with the LCSF costs, as "whole life cycle costs"). The private sector under the Partnership Agreement and funding agreements must maintain a Lifecycle Sinking Fund (LCSF) from the fund's expected expenditure	Lifecycle Sinking Fund (LCSF) Costs
An agreement between the Procuring Entity and the Project Company governing the relationship between the parties in relation to the Partnership Project	Partnership Agreement
Any capital expenditure project, asset monetization or initiative identified as a Candidate Project that has been approved by the competent Approving Authority in accordance with Chapter Two	Partnership Project
Has the meaning given in Chapter One, paragraph 1.1.3	PPP Law
A bidder awarded status pursuant to the mechanism described in Chapter Three, paragraph 2.6	Preferred Bidder
The PPP Law, the Regulations, this Manual and all other guidance notes, tools or templates issued by ADIO from time to time for the purpose of regulating the procurement and tendering of Partnership Projects in Abu Dhabi	Procurement Framework
The procurement plan prepared exclusively for a Candidate Project as part of the Business Case	Procurement Plan

## Glossary

The government entity developing, procuring and/or monitoring the Project / Candidate Project / Partnership Project (as the case may be)	Procuring Entity
A special purpose vehicle established by the winning bidder to implement the Partnership Project, (if applicable)	Project Company
A working group appointed to procure and tender a Partnership Project as defined in Chapter Two.	Project Team
A private sector entity submitting a proposal without being requested to do so	Proponent
A whole-life financial model which is a risk-adjusted estimate of the hypothetical costs of the Candidate Project if it were to be designed and implemented by the Procuring Entity directly in accordance with the required output specifications	Public Sector Comparator (PSC)
Has the meaning given to it in Chapter One, paragraph 1.1.3	Regulations
A government entity authorized to grant one or more Key Stage Approvals as set out in Figure 1: Stages of a Candidate Project / Partnership Project	Relevant Approving Authority
A tender document requesting proposals from private sector participants for a specific Partnership Project	Request for Proposals (RfP)
A tender document requesting certain information from private sector participants to assess whether they meet certain pre-defined qualification criteria in respect of the Partnership Project	Request for Qualifications (RfQ)
A fully costed and priced financial model which includes (1) the private sector's expected cost and financing requirements for a Partnership Project accompanied by detailed financial projections and analyses with clear output specifications to be implemented over a specified period of time (including a minimum construction and operation period) and (2) for the purpose of evaluating price bids	Shadow Bid Model (SBM)
Services such as: cleaning, pest control, waste management, security, energy and utilities management, grounds maintenance service management and health and safety management	Soft Facilities Management

## Glossary

As defined in paragraph 2.5.1 of this Manual	Tender Evaluation Committee
As defined in paragraph 2.5.3 of this Manual	Tender Evaluation Report
The procedures set out in Chapter 2 detailing the procedures to be used during the tendering process for the Partnership Project	Tender Management Procedures
The process set out in Chapter Three	Tendering Process
A proposal for an infrastructure project submitted by the private sector on its own initiative, rather than in response to a request from the government or a competitive tender requested by the government	Unsolicited Proposal (USP)
The concept described in Appendix 8	Value for Money (VfM)

## 4.3 Code of Business Ethics

### Objectives and Scope of the Code of Business Ethics

The purpose of the Code of Business Ethics is to establish principles and rules that serve as an ethical constitution governing the work of and applying to each individual and all parties involved in the Partnership Project process, including, but not limited to, the Project Team and the Tender Evaluation Committee (a Party if single, Parties if a group of parties) in accordance with the business ethics expected in the procurement profession.

The Code of Business Ethics seeks to promote ethical conduct and emphasize the accountability of the Parties to protect the reputation of ADIO and Procuring Entities. It also seeks to prevent misconduct and unfair business conduct during the Tendering Process.

## **General Principles**

The Parties must perform all activities to make sound business decisions with integrity and honesty.

The Parties must be fully aware of and act in accordance with the Code of Business Ethics and the Procurement Framework. Violation of the Code of Business Ethics and the Procurement Framework due to unawareness of their contents is not acceptable.

The Parties must immediately report any breach of the Code of Business Ethics or the Procurement Framework to ADIO for investigation and necessary action.

Any member of the Project Team who contravenes the Code of Business Ethics or the Procurement Framework shall be held responsible for their actions and may be subject to disciplinary or legal action based on the circumstances and applicable legislation.

## **Fiduciary Responsibility**

The Parties must act in the best interest of ADIO and the Procuring Entities they represent.

The Parties must perform the duties and responsibilities assigned to them in accordance with the Procurement Framework.

## **Compliance with Applicable Legislation**

The Parties must perform all procurement activities in accordance with local and federal legislation.

The Parties must oblige all other parties to comply with local and federal laws, including any applicable health, safety, and environmental regulations when dealing with ADIO and the Procuring Entity.

They must report to the relevant government authorities any violation of any applicable legislation by any other party.

## **Professional Integrity**

The Parties must act in accordance with the highest standards of integrity and must not exhibit intent or display unethical or derogatory behavior in their professional relationships, actions, or communications.

The Parties may not abuse their official positions, grant special privileges, or make special promises on behalf of ADIO and the Procuring Entity to the party they represent.

The Parties must be impartial in the execution of procurement activities to ensure the confidence of all stakeholders in the results, and they must demonstrate sound procurement practices, accountability, and report any actual or suspected violation of the Procurement Framework.

### **Conflict of Interest**

The Parties must proactively manage and avoid conflicts of interest.

The Parties must immediately disclose personal interests and roles or roles with potential conflicts that may affect, or may reasonably be perceived by others to affect, the integrity of the decisions made by ADIO.

The Parties are prohibited from participating in any decisions or recommendations concerning individuals or institutions with whom they have a current or potential material financial relationship.

The Parties may not grant any privileges or special treatment and must avoid personal and reciprocal agreements with Applicants, Bidders, or any other party. The Parties are not entitled to accept gifts or anything of material or moral value from any other party.

### **Confidential Information**

The Parties must not disclose confidential or proprietary information for their personal or professional benefit.

Sensitive information related to spending, contracts, pricing, Applicant or Bidder conferences, Applicant or Bidder performance, and commercial and strategic planning must be kept confidential and disclosed only to authorized personnel, and an electronic audit trail must be maintained.

The Parties are responsible for protecting financial, proprietary, and other confidential information provided by any Applicant, Bidder, or any other party to ADIO and the Procuring Entity.

## **Fair Relationships**

The Parties must promote positive relationships with Applicants, Bidders, and any other party to maintain a competitive procurement environment by treating all parties equally and fairly.

The Parties may not exercise any undue or coercive influence on any other party to provide prices below cost or to deliberately set conditions that result in a loss or in the exclusion of any of the other parties.

## **Environmental Responsibility**

The Parties must consider the concept of sustainability to avoid adverse social and environmental impacts resulting from procured assets, services, and projects.

The Parties must strive to procure assets, services, and projects that meet environmental regulations and work to eliminate wasteful practices.

The Parties shall provide assistance to any other parties when needed to help raise their environmental awareness in accordance with applicable local and federal environmental legislation.

## **Professionalism**

The Parties must act professionally and apply high professional standards while performing work.

They must adhere to the following principles:

- Not to commission a job that exceeds the qualifications of the appointee.
- Be familiar with the Procurement Framework.
- Be familiar with any applicable legislation to which ADIO or any government entity is subject.
- Pay the necessary professional attention in implementing, supervising, and reporting on procurement operations.
- Maintain professional competence through continuous professional development.

## **Code of Professional Conduct**

The Parties shall comply with the provisions of the ADIO Code of Professional Conduct as announced in [●].



The Parties must inform ADIO in writing and immediately of any action taken by a party that conflicts with the provisions of the ADIO Code of Professional Conduct, especially if such a violation relates to matters of bribery or corrupt practices.

#### **4.4 Concept Report**

The Concept Report must consider the following questions:

**Strategic Alignment and Project Needs Assessment: Consider questions such as:**

- a. Was the project developed in response to a clear service need?
- b. Does the project meet the demand for the service partially or fully?
- c. Is the project aligned with the Government's strategic objectives?
- d. Does the project serve the public interest?

**Benchmarking Successful Projects Globally: Consider questions such as:**

- a. Have similar projects been successfully implemented elsewhere?
- b. What are the perceived components of such successful projects?
- c. Would similar projects succeed in Abu Dhabi? What changes are needed if not?

**Project Scope Definition and Technical Feasibility: Consider questions such as:**

- a. What is the scope of the project?
- b. Is the specified technical solution the best, or are there better alternatives?
- c. Is there sufficient confidence that the technical feasibility of the project can be demonstrated?
- d. Have the most prominent technical and operational risks been identified?
- e. Has the required site for project development been identified?
- f. Is a preliminary design available (e.g., to prove feasibility)?

**Legal Feasibility: Consider questions such as:**

- a. What legal and administrative approvals are required, and who provides them?
- b. Are there legal, regulatory, or statutory obstacles to the procurement or implementation of the project?
- c. Is it necessary to amend any laws or regulations?
- d. Whether the Procuring Entity will have the legal capacity and authority to ultimately enter into the Partnership Agreement in respect of the Candidate Project.

**Financial Feasibility: Consider questions such as:**

- a. What are the most prominent cost components of the project?
- b. Has a preliminary analysis of market demand been conducted?

**Socio-economic and Environmental Feasibility: Consider questions such as:**

- a. What are the expected socio-economic impacts of the project?
- b. Are there any expected material environmental impacts?
- c. Can the expected negative social and environmental impacts be mitigated?

**Market Appetite Test: Consider questions such as:**

- a. What is the market's appetite for the project?
- b. What is the likely supply/demand scenario?
- c. What is the market's view on the project's configuration?

A list of key approvals required for the preparation and development of the project through the Contracting Model and/or its procurement and/or management.

Political support and consultation with stakeholders to ensure that relevant government entities are aware of the project, with an indication of potential concerns to take action during the preparation of the "Business Case".

## 4.5 Preliminary Transaction Management Plan

The Project Team should consider all key steps in the upcoming process when developing a preliminary transaction management plan as set out in the paragraph, including:

- a. An implementation roadmap with key tasks and start and end dates.
- b. Data to be collected and assessments to be conducted.
- c. Key documents or reports to be prepared.
- d. Required internal and external capabilities.
- e. Sources of funds and financing (if any).
- f. Consultation with stakeholders.
- g. Any legal or regulatory steps to be taken, including permits that may need to be obtained.
- h. The competitive tendering process and the coordination interface with the private sector.
- i. The Government's decision-making and approval process.

## 4.6 Feasibility Study Requirements

Appendix 5.6 outlines the recommended content for a Feasibility Study.

Feasibility Study	
Summary	This executive summary should encompass the following sections, with a specific concluding subsection outlining the commercial, technical, financial, and legal matters that require the approval of the relevant authorities.
Technical Matters	This should include the executive summary of the concept report, with the full report included as an appendix.
Options Analysis	This should detail the process undertaken during the options analysis, including a summary of any preliminary market sounding conducted.

<b>Financial and Economic Analysis</b>	<p>This should detail the process and results of this analysis (including project scope and risk allocation, the Public Sector Comparator, the Shadow Bid Model, proposed financial commitments, and the discount rate), the Value for Money analysis and results, and the relevant outputs of any market sounding.</p> <p>The appendices should include the financial model, cost data and cost and revenue benchmarking analysis, and market analysis, as applicable, regarding any revenue-based assumptions (from the Concept Report).</p>
<b>Structuring</b>	<p>This should detail the preferred contracting model, project scope, and the technical, commercial, contractual, financial, and legal matters, including relevant findings from any market sounding.</p>
<b>Procurement Plan</b>	<p>This should outline the bidding process for the Partnership Project, including any variation from the procurement procedures set out in Chapter 2 (providing clear justifications).</p>

## 4.7 Proposed Bids

### Overview

Appendix 5.7 applies to any unsolicited proposal submitted in accordance with Chapter Error! Reference source not found, paragraph Error! Reference source not found.

All unsolicited proposals must be evaluated jointly by the Abu Dhabi Investment Office and the Procuring Entity. Any Procuring Entity that receives an unsolicited proposal must forward it to the Abu Dhabi Investment Office, and vice versa. The Office and the Entity should seek to evaluate these proposals promptly upon receipt.

The Office and the Entity have the right to request clarifications and meetings as necessary with the proposer to clarify any aspect of the proposal.

## Requirements for a Compliant Proposed Bid

A proposed bid is expected to meet the following to be compliant:

- Explain how the bid meets the minimum related requirements outlined in Chapter Two, paragraph Error! Reference source not found, and must specifically explain how the proposed bid will:
  - Meet a societal need or provide clear, measurable benefits to the Emirate of Abu Dhabi.
  - Include an innovative proposal - presenting unique features, innovative design, proprietary/new technology, or a new concept with very limited alternatives, and presenting an innovative approach to project development and management, and providing a new and cost-effective method of service delivery.
  - Achieve Value for Money for Abu Dhabi.
  - Be affordable within the Government's budget, funding priorities, and financial strategy.
  - Allocate risk between the private and public sectors in a way that benefits the Government.
  - Be technically, commercially, and operationally feasible.
  - Be a matter that the proponent has the capacity and capability (financial, technical, and legal) to successfully deliver.
  - Be suitable for public investment, i.e., it does not replace private sector activity, crowd out private investment, or conflict with principles of competitive neutrality.
  - Include a proposal that addresses all aspects required under Chapter Two, paragraph Error! Reference source not found, and a well-prepared financial offer that shows the estimated cost to the Procuring Entity.
  - Identify whether any proprietary intellectual property is required to implement the proposed project (including identifying the owner of the proprietary intellectual property).
  - Detail the costs: (1) incurred by the proponent in preparing the proposed bid, and (2) that the proponent expects to incur in submitting a compliant bid (in accordance with the bidding process) for the project proposed by the proposed bid.

- Meet the submission requirements for the proposed bid outlined below.

## **Submission Requirements for the Proposed Bid**

The proposed bid must be submitted in accordance with the following requirements:

- In a sealed envelope, one addressed to the Abu Dhabi Investment Office and the other to the relevant Procuring Entity, bearing the title of the proposed bid, the name and address of the proponent, and the words "Proposed Bid for Partnership Project".
- Include at least two hard copies and two electronic copies in each envelope of the proposed bid on a USB storage device (in Word or PDF format).

## **Handling the Proposed Bid**

Each project proposed by a proponent is treated as a proposed bid, which the Abu Dhabi Investment Office and the Procuring Entity will determine if it is suitable to become a candidate project under this guide in terms of structuring analysis, due diligence, and the bidding process, taking into account the incentives outlined below. This initial engagement between the proponent, the Abu Dhabi Investment Office, and the Procuring Entity will typically include the following steps:

- The proponent contacts the Abu Dhabi Investment Office and the Procuring Entity regarding the proposed bid.
- The Abu Dhabi Investment Office, the Procuring Entity, and the proponent attend a pre-submission meeting to determine if a proponent officially submitting the proposed bid has merit.
- The proponent prepares an initial, confidential proposal and submits it to the Abu Dhabi Investment Office and the Procuring Entity.
- The Abu Dhabi Investment Office and the Procuring Entity consider the initial proposal and notify the proponent if the Office or the Entity wishes to receive a detailed proposal.
- The proponent prepares a detailed proposal that complies with all the requirements of Appendix 5.7 if requested to do so by the Abu Dhabi Investment Office and the Procuring Entity.

**Incentives for Proposers of Proposed Bids**

The following incentives will be provided to proposers to encourage the submission of bids:

- **Direct Shortlisting for Request for Proposals:** The proponent will be automatically shortlisted to receive the Request for Proposals.
- **Reimbursement of Proposal Preparation Costs:** The proponent is entitled to recover (from the successful bidder) their reasonable direct costs incurred in preparing the proposed bid, commensurate with the level of preparation of the proposed bid (provided that evidence is submitted). These costs will be circulated to all bidders at least two weeks before the submission of responses to the Request for Proposals, which are either:
  - Agreed upon between the proponent and the project team.
  - Or, in case of failure to agree, as determined by a third-party auditor (jointly appointed by the Abu Dhabi Investment Office and the proponent).

The successful bidder will recover these costs on the date of execution of the commercial agreements or the financial close of the relevant Partnership Project, if possible.

- **Intellectual Property Licensing Costs:** If there is intellectual property involved in the proposed bid that is:
  - The property of the proponent or its suppliers.
  - Required for the implementation of the Partnership Project.

The Request for Proposals will include details specifying the basis on which this intellectual property will be licensed to the successful bidder, including the amount payable to the proponent, if the proponent is not the successful bidder.

**4.8 Value for Money Analysis**

The project team must perform the following to conduct a Value for Money analysis:

Value for Money Assessment Procedures	
1	

	Prepare the Public Sector Comparator model and the Shadow Bid Model.
2	Apply weightings to the quantitative and qualitative factors (see below) relevant to the candidate project.
3	Conduct a quantitative Value for Money assessment comparing the cost of procuring the candidate project as calculated in the Shadow Bid Model against the risk-adjusted cost of procuring the candidate project through traditional procurement as shown in the Public Sector Comparator model.
4	Apply appropriate discount rates to the Public Sector Comparator model and the Shadow Bid Model to convert both estimated future costs and estimated future revenues of the proposed project to a present value. These rates will reflect the relative assessment of risk and the typical returns expected by the public and private sectors.

The inputs for the quantitative Value for Money analysis should be based on empirical data (cost, revenue, efficiency, risk inputs, etc.) such as that extracted from previous agreements concluded by the Procuring Entity for the construction, operation, and maintenance of similar assets.

However, in the absence of such empirical data, other sources that can be used include bottom-up cost estimation (such as cost information building service cost analysis) that has been market-tested and through supplier inputs and published works on construction costs, as well as expert workshops.

## **Shadow Bid Model**

The Shadow Bid Model represents the Procuring Entity's best estimate of the bids it expects to receive from the private sector. This model is a financial model that includes capital, operating, financing, and tax assumptions from a private sector perspective for the specific contracting model.



## Public Sector Comparator

The Public Sector Comparator represents a model of the costs and revenues (if any) associated with a candidate project delivered directly by the Procuring Entity. The following are the components of this model:

Components of the Public Sector Comparator	
<b>Raw Public Sector Comparator</b>	The baseline estimate of the total costs incurred by the Procuring Entity as a result of procuring a project via traditional procurement methods, including capital and operating costs associated with delivering the required outputs or services over a specified period, i.e., calculated as capital costs plus operating costs minus revenues.
<b>Risk Adjustments</b>	Risks transferred to the private sector under the contracting model by the Procuring Entity must be reflected in the Public Sector Comparator.
<b>Retained Risks</b>	Adjustments to cost and revenue estimates to reflect risks and uncertainties that the Procuring Entity would have to retain under traditional procurement.
<b>Competitive Neutrality</b>	Advantages of the Procuring Entity that may not be available to a private sector partner, i.e., tax advantages, regulatory exemptions available to government entities, reduced costs for permits and approvals, and others.

The Public Sector Comparator is calculated as the sum of the above components and is expressed as a net present cost of the expected cash flow discounted at an appropriate discount rate.

## Quantitative Value for Money Estimation

Value for Money is defined as the absolute difference between the total net present value cost of project ownership under the Public Sector Comparator model compared to the Shadow Bid Model.

A positive Value for Money indicates that the contracting model provides a higher degree of Value for Money compared to the Public Sector Comparator model.

In the example in Figure 3 below, the Procuring Entity makes monthly payments to the selected private partner for a period of 20 years. The Value for Money is calculated as the difference in cost to the Procuring Entity between the Public Sector Comparator and the adjusted Shadow Bid Model for the project, which in this case amounts to AED 120 million.

Figure 3: Illustrative Example of Value for Money Analysis

**Graphic Analysis (inferred from the image):**

**Public Sector Comparator: Total 950**

- Capital Expenditure: 750
- Lifecycle Asset Replacement Costs: 50
- Operating Expenditure: 100
- Transferred Risk: 40
- Competitive Neutrality Adjustments: 10

**Partnership Model: Total 830**

**Difference (Value for Money): -120 (13% saving)**

**Discount Rates**

The selection of appropriate discount rates for the Value for Money analysis is important for the quantitative assessment of Value for Money in general. The discount rate for a Partnership Project should take into account the risks borne by the private partner. The risks facing a Partnership Project can be classified as follows:

Types of Risks	
<b>Unsystematic Risks</b>	Risks specific to an asset or sector that can be mitigated, managed, or even eliminated through portfolio diversification.
<b>Systematic Risks</b>	Market-level risks that affect all asset classes and cannot be reduced by portfolio diversification (e.g., demand risk linked to the economy in general, inflation volatility, etc.) (Systematic Risks).

The discount rates used in the Public Sector Comparator model and the discount rates used in the Shadow Bid Model differ according to the systematic risks borne by each party. The application of discount rates will also vary between social infrastructure projects and economic infrastructure projects as shown in the table below.

Project Type	Discount Rates	Justifications
<b>Social Infrastructure</b>	Public Sector Comparator at a risk-free rate	Systematic risks are transferred to the private sector for projects with net cash flows to the Procuring Entity (i.e., availability payment projects). The target discount rates are adjusted to reflect systematic risks and should be used to discount the net cash flows of the Shadow Bid Model.
	Shadow Bid Model at a target discount rate (risk-free plus systematic risk transferred to the private sector)	
<b>Economic Infrastructure</b>	Public Sector Comparator at a target discount rate (risk-free plus systematic risk)	<p>The estimated net return should be equal to the returns sought by the private sector for projects with net cash flows to the Procuring Entity (i.e., revenue-generating projects). Value for Money should focus on selecting investments that deliver the best value.</p> <p>The Public Sector Comparator should be discounted at the</p>

		target discount rate (instead of risk-free rates).
	Shadow Bid Model at a risk-free rate	

## Qualitative Value for Money Analysis

Cost estimates, discount rate adjustments, and risk assessments that form a quantitative analysis of actual value are based on estimates only. Therefore, the process of determining Value for Money is only as accurate as the assumptions made. As such, the quantitative Value for Money analysis should be supported by a qualitative assessment of Value for Money.

The qualitative Value for Money analysis identifies and compares the qualitative and non-financial benefits resulting from the contracting model against the qualitative benefits of traditional public implementation of the project. This includes assessing the rationale for the contracting model, the socio-economic impact that might arise from the absence of the project or service, and whether supporting conditions are in place to achieve Value for Money.

The qualitative Value for Money analysis has the advantage of distinguishing factors not captured in the quantitative Value for Money analysis. The qualitative and quantitative outputs of the Value for Money analysis should be examined together for a comprehensive assessment of the pros and cons of the contracting model versus traditional procurement.

The project team must perform the following to conduct the qualitative Value for Money analysis:

- Conduct a qualitative assessment of Value for Money that compares the qualitative cost of procuring the candidate project as calculated in the Shadow Bid Model against the qualitative cost of procuring the candidate project through traditional procurement as shown in the Public Sector Comparator model.
- Conduct a qualitative assessment of Value for Money that compares the non-financial and qualitative benefits of procuring the candidate

project using the preferred contracting model. The assessment should include consideration of the project characteristics, the institutional and legal framework, service delivery and operational requirements, and a range of design considerations. The assessment should include considerations of the specific criteria and questions below:

Criteria and Key Questions		
A. Direct Drivers of Value for Money		
1	Output-based contracting	<ul style="list-style-type: none"> <li>• Is there scope for innovation from the private sector in solution design or service delivery?</li> <li>• Does the private sector have any flexibility regarding the nature of the technical solution/services/ or project scope?</li> <li>• Is the solution free from restrictions imposed by the Procuring Entity or from legal conditions, requirements, or technical standards that might affect service provision?</li> </ul>
2	Optimal risk allocation	<ul style="list-style-type: none"> <li>• Is there scope for transferring significant risks to the private sector?</li> <li>• Can the payment mechanism and contract terms incentivize good risk management by the private sector partner?</li> </ul>
3	Outsourcing to the private sector	<ul style="list-style-type: none"> <li>• Are there significant cost advantages for the private sector compared to the Procuring Entity in delivering project assets and services (due to increased</li> </ul>

Criteria and Key Questions		
A. Direct Drivers of Value for Money		
		<p>efficiency, economies of scale, and extensive experience)?</p> <ul style="list-style-type: none"> <li>• Can the private sector achieve better commercial use of project assets, leading to increased revenues?</li> </ul>
4	Improving project phases (project lifecycle)	<ul style="list-style-type: none"> <li>• Does the project offer the potential for increased efficiency from improving the project lifecycle?</li> <li>• Can the design, operation, and construction elements of the project be integrated?</li> <li>• Will there be significant ongoing operating expenses and maintenance requirements? Will these issues be related to the type of construction operations?</li> </ul>
5	Performance-related payments and incentives	<ul style="list-style-type: none"> <li>• Can the project's results or outputs be described contractually and in contractual terms that are objective and measurable?</li> <li>• Will incentives for service delivery be enhanced through a performance-related payment mechanism as proposed in the Partnership Project?</li> </ul>
6	Private financing	<ul style="list-style-type: none"> <li>• Is private financing necessary to undertake the project?</li> <li>• Is there a lack or unavailability of public funds that would lead to the inability to</li> </ul>

Criteria and Key Questions		
A. Direct Drivers of Value for Money		
		undertake or implement the project (or it could be implemented but with significant delay) unless private sector financing is provided?
7	Competitiveness	<ul style="list-style-type: none"> <li>• Has a pool of bidders capable of implementing the project been identified?</li> <li>• What was the impact (e.g., how much cheaper was the bid than the parallel bid approved as the affordability limit) on competition in previously tendered projects?</li> </ul>
8	Output-related specifications	<ul style="list-style-type: none"> <li>• Is it possible to describe the services with objective and clear outputs and in terms that support outcomes (not activity-based) and that can be included in a long-term contract?</li> <li>• Can contractual outputs be defined and specified so that they can be measured objectively?</li> <li>• Can the quality of services be measured and analyzed objectively?</li> <li>• Can a link be established to verify output specifications, monitor actual performance, and the payment mechanism?</li> </ul>
9	Revenue source	<ul style="list-style-type: none"> <li>• Is there a known income source for the project?</li> </ul>

Criteria and Key Questions		
A. Direct Drivers of Value for Money		
		<ul style="list-style-type: none"> <li>• In the case of user-pays projects, are there enough users with the ability and willingness to pay for the services?</li> <li>• In the case of government-pays projects, does the Procuring Entity have the ability to commit to making payments throughout the project's availability and for the duration of the concession contract, and is the revenue source stable and predictable?</li> </ul>
10	Operational flexibility for the Procuring Entity	<ul style="list-style-type: none"> <li>• Will the partnership model grant the Procuring Entity the necessary and sufficient operational flexibility to respond to future needs?</li> <li>• What is the likelihood of a significant change in the need for the service during the term of the partnership contract that might require a contract modification?</li> <li>• If the services provided under the partnership contract overlap with other services or projects not covered by the partnership contract, can this overlap be managed and handled?</li> <li>• If the partnership model requires the transfer of employees from the public to the private sector, is it possible to complete the employee transfer without significant difficulties?</li> </ul>
11	Implementing entity's capacity	



Criteria and Key Questions		
A. Direct Drivers of Value for Money		
		<ul style="list-style-type: none"> <li>• Does the Procuring Entity have the financial and human resources to prepare and tender the Partnership Project?</li> </ul>
12	Regulatory and supervisory constraints	<ul style="list-style-type: none"> <li>• Is there a clear mandate from the government to support the private sector in implementing the project?</li> <li>• Are there legal or regulatory barriers to delegating service provision to the private sector?</li> <li>• Is the provision of the service under the partnership model consistent with the protection of the public interest (e.g., regarding environmental sustainability, worker safety, and fair and legitimate competition)?</li> <li>• Is the provision of the service under the partnership model consistent with other policy objectives (e.g., regarding land use, income distribution, and economic development)?</li> </ul>
13	Significant uncontrollable risks	<ul style="list-style-type: none"> <li>• Are there significant risks that cannot be controlled by the private sector that might make private financing unfeasible or very expensive? This may include traffic-related risks (especially for greenfield projects and in cases of macroeconomic uncertainty), uncertainties related to the costs of meeting environmental regulations, the</li> </ul>

Criteria and Key Questions		
<b>A. Direct Drivers of Value for Money</b>		
		use of unproven technologies, and difficult terrain conditions.
14	Private sector capacity and interest?	<ul style="list-style-type: none"> <li>• Is there sufficient evidence that the private sector is financially and technically capable of implementing the project?</li> <li>• Is it likely that there will be a pool of bidders interested in the project to ensure effective competition?</li> <li>• Is there evidence that financiers will provide the necessary funding for investment in this type of project?</li> </ul>
<b>B. Socio-economic Impact</b>		
B1	Early delivery	<ul style="list-style-type: none"> <li>• Could the partnership model lead to the early delivery of project outputs and services?</li> <li>• Is it possible to identify and calculate or estimate (where possible) the benefits resulting from early delivery?</li> </ul>

Criteria and Key Questions		
A. Direct Drivers of Value for Money		
B2	Enhanced delivery	<ul style="list-style-type: none"> <li>• Could the partnership model lead to improved project delivery?</li> <li>• Is it possible to improve the operational life of the assets (residual value) through private sector efficiency?</li> <li>• Is it possible to improve the quality of service performance, which could lead to an increase in the number of users and thus generate additional revenue?</li> </ul>
B3	Additional social, economic, and environmental benefits	<ul style="list-style-type: none"> <li>• Will the project lead to achieving macroeconomic benefits due to the impact of the investment on the economy and the environment?</li> </ul>

## Value for Money Assessment at Multiple Stages

Value for Money is assessed at the following stages of a Partnership Project:

Value for Money Assessment		
1	<b>Concept Report</b>	An initial qualitative and quantitative Value for Money analysis is performed to ascertain whether a project can be procured via a Partnership Project.
2	<b>Feasibility Study</b>	An initial quantitative Value for Money analysis is performed that compares the Shadow Bid Model and the Public Sector Comparator model for the contracting model.

		When this assessment yields negative Value for Money results, the recommendation to proceed with the contracting model must be accompanied by a statement to the relevant approving authority detailing the qualitative advantages that justify the recommendation.
3	<b>Bidding Process</b>	Bids received during the bidding process will be evaluated by comparing the risk-adjusted net present cost of the bid with the Public Sector Comparator model.
4	<b>Contract Management</b>	The estimated Value for Money during bid evaluation can be tested during the actual implementation and operation of the project to confirm that the estimated Value for Money has been achieved.

The results of the Value for Money analysis should be used to support decision-making processes to:

- Confirm the preferred contracting model.
- Estimate the quantitative cost of procuring the candidate project.
- Assess the qualitative socio-economic benefits of the candidate project.

The Value for Money analysis conducted during the procurement process can be repeated and re-examined as part of the bid evaluation and during the review of the final feasibility study.

## 4.9 Contract Management Principles

### Overview

Contract management principles relate to Partnership Projects in general, and their implementation for a specific Partnership Project will be subject to the terms of the specific Partnership Agreement and relevant project documents.

The relevant matters will be considered at an early stage of the Partnership Project development process and the bidding process in many cases, and the Procuring Entity will have less influence on how these matters are managed by the time the contract management phase begins.

**Managing Transitions**


All Partnership Projects go through transitions between the different phases of the project (i.e., from commercial close to construction, from construction to operation, and from operation to handover). Each of these processes represents a period of significant change, which may involve staff turnover within the Procuring Entity and the Project Company, as well as new responsibilities and challenges.

The Procuring Entity will need to communicate with other relevant government agencies during the management of transitions to ensure that potential delays are minimized and that sufficient resources are provided for the necessary transitions.

Managing Transitions		
1	<b>From Financial Close to Construction</b>	<p>The Procuring Entity must do the following while managing the transition from financial close to the construction phase:</p> <ul style="list-style-type: none"><li>• Recognize that the Partnership Agreement documents are extensive and complex and may need to be converted into effective and accurate operational tools.</li><li>• Establish a clear understanding within the contract management team of what the Partnership Agreement means and integrate key contract terms into the contract management manual.</li><li>• Clearly define all roles related to preparing/updating and maintaining the contract management manual.</li></ul>

	<ul style="list-style-type: none"> <li>• Implement engagement with key stakeholders (e.g., local authorities, regulatory bodies, utility providers, and any other external parties) whose approvals, consents, or permits may be necessary to enable the start of construction works and cooperate with the Project Company, when needed, to ensure permit issues are resolved effectively.</li> <li>• Involve end-users and other affected parties throughout the process.</li> <li>• Address outstanding issues of land acquisition and access as early as possible, ensure good resettlement practices are adopted where land acquisition affects local communities, and work closely with the Project Company regarding any delays, recognizing the impact of delays on all parties operationally and contractually.</li> <li>• Maintain clear records and data management procedures for resettlement and compensation procedures to ensure transparency and overcome subsequent disputes.</li> <li>• Share relevant parts of the contract management manual with the Project Company to enhance coordination.</li> </ul>
<p>2 <b>From Construction to Operation</b></p>	<p>The Procuring Entity must do the following while managing the transition from the construction phase to the operation phase:</p> <ul style="list-style-type: none"> <li>• Ensure sufficient resources for testing and commissioning.</li> </ul>

	<ul style="list-style-type: none"> <li>• Plan for testing and commissioning early, and consider establishing a testing and commissioning committee.</li> <li>• Test the Project Company's performance management tools before the start of operation to ensure they are effective and compatible with the Procuring Entity's systems.</li> <li>• Allow sufficient time for parties to familiarize themselves with the operational key performance indicators and payment mechanisms.</li> <li>• Focus on the relationship with the Project Company during the transition between construction and operation, and minimize the risk of disputes.</li> </ul>
<p>3 <b>From Operation to Handover</b></p>	<p>The transition from the operation phase to handover covers the period when the original Partnership Agreement ends. This generally involves the assets or the operation of assets being handed over, according to the terms of the Partnership Agreement, to the Procuring Entity or to a new operator.</p> <ul style="list-style-type: none"> <li>• The Procuring Entity must ensure the Project Company's compliance with contractually stipulated handback requirements, particularly concerning the condition and rectification of assets.</li> <li>• The Procuring Entity must manage this phase properly so that it is not left with an asset with a shorter remaining life than expected or in a condition that leaves the Procuring Entity unable to continue providing the relevant service.</li> </ul>

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- If the required asset condition is described according to technical standards that require independent verification, the Procuring Entity must plan for this to occur in accordance with the agreed contractual process.

## **Performance Monitoring**

Performance monitoring focuses on monitoring the delivery of contracted services, managing related performance risks and issues, and addressing broader performance management issues.

Regarding the regular provision of contracted services, the contract management team should have effective arrangements for monitoring outputs and a clear strategy on key contentious issues such as invoice payment and service payment abatements. An effective performance monitoring and reporting strategy depends on the following elements:

- The Procuring Entity's understanding of the business environment and the government's objectives in entering into the contract. Performance metrics are at the heart of performance management, and it is important that performance metrics are linked to strategic objectives and desired outcomes.
- The Procuring Entity's understanding of the Project Company's internal operating environment, such as cash flows. Through this understanding, the Procuring Entity can gain awareness of the Project Company's strengths and weaknesses, including financial performance.
- The Procuring Entity's monitoring of the Project Company's performance quality indicators, looking for weaknesses or trends that could provide an early indication of risks facing the project.
- The Procuring Entity regularly reviews service quality against key performance indicators and output specifications. The Procuring Entity takes action after monitoring to mitigate or manage emerging risks and to maximize Value for Money from the project.



Effective performance monitoring in a Partnership Project involves rigorous monitoring of the provision of contracted services and access to relevant information to assess and mitigate any emerging risks.

The Procuring Entity should do the following during routine performance monitoring:

Key Practices for Performance Monitoring	
1	Ensure sufficient resources for performance monitoring activities
2	Utilize interim construction milestones to stay informed on progress
3	Be aware of and use the most efficient performance monitoring tools, including automated reporting
4	Use Key Performance Indicators and payment mechanisms to ensure the Project Company's performance aligns with the Partnership Agreement, not as punitive measures
5	Assess the operational effectiveness of KPIs before the start of operation or early in the operational phase and on an ongoing basis
6	Clarify the intended application of KPIs that are perceived as unclear or ambiguous with the Project Company
7	Maintain good records of performance data for wider use

## Stakeholder Management

The key elements of successful stakeholder management are summarized below.

Best Practices in Stakeholder Management	
<b>1. Project Company</b>	<ul style="list-style-type: none"><li>• Consider the interests of the Project Company, including any changes to its circumstances</li><li>• Ensure appropriately frequent meetings are held, including at relevant strategic levels</li></ul>

	<ul style="list-style-type: none"> <li>• Follow formal communication requirements when needed under the Partnership Agreement</li> <li>• Recognize the pros and cons of appointing members to the Project Company's board, when necessary</li> <li>• Consider co-location of office space with the Project Company, which can benefit the relationship</li> <li>• Use contractual provisions to protect the Procuring Entity's rights rather than taking punitive measures</li> <li>• Focus on a positive relationship, even in the presence of ongoing disputes</li> </ul>
<b>2. Other Private Sector Partner Stakeholders</b>	<ul style="list-style-type: none"> <li>• Consider relevant private sector partners (including the construction contractor) in relevant communications and meetings, but without diluting the risk allocation position of the Project Company as the sole point of responsibility for the Procuring Entity under the Partnership Agreement</li> </ul>
<b>3. End-users, Businesses, and the Local Community</b>	<ul style="list-style-type: none"> <li>• Ensure the participation of end-users, businesses, and local community stakeholders in all phases of infrastructure implementation to ensure viability and enhance services</li> <li>• Ensure continuous transparent engagement with end-users, businesses, and local community stakeholders on all relevant issues</li> <li>• Define the role of the Project Company in managing end-users, businesses, and local community stakeholders</li> </ul>

	<ul style="list-style-type: none"> <li>• Consider each relevant community group, as they may have different interests and desired outcomes</li> </ul>
<b>4. Other Government Entities</b>	<ul style="list-style-type: none"> <li>• Consider the level of engagement required from other government agencies</li> <li>• Establish effective governance structures to manage relationships with other relevant government agencies</li> <li>• Collaborate with the Project Company to work with other government agencies, as appropriate</li> <li>• Plan early for managing other government or quasi-government agencies over which the Procuring Entity has no influence</li> </ul>

## Data Collection and Management

When implementing the data aspects of a Partnership Project, the Procuring Entity should do the following:

- Understand the scope of data that will be collected and maintained as part of the project.
- Develop an information management system that works for the Procuring Entity and the Project Company.
- Use similar information management systems and software across multiple projects where possible.
- Agree on the level of detail required from the Project Company in a timely manner to set expectations about the format of the required information.

## Claims

Changes during the lifecycle of a Partnership Project require proper management. Changes may be anticipated at the time of procurement and

stipulated in the Partnership Agreement, or they may not be anticipated during procurement but are considered desirable or necessary modifications to the services or the Partnership Agreement.

In both cases, change events are a source of risk and a potential opportunity for additional benefits from the project. The Procuring Entity must ensure there is no unintentional clawback of risks allocated to the Project Company.

When managing claims, the Procuring Entity must do the following:

- Understand the Project Company's rights to claim under the Partnership Agreement and ensure the team is adequately resourced to assess claims.
- Monitor potential claim risks to mitigate their occurrence and prepare for their receipt early.
- Seek to retain the risk allocation agreed upon at commercial close and ensure Value for Money when assessing scope changes.
- Understand the claim and scope change procedures set out in the Partnership Agreement and ensure the Procuring Entity complies with the procedures.
- Implement claim and scope changes quickly to avoid them escalating into disputes or having other adverse effects on the project.
- Work with other government agencies to mitigate emerging claim risks and to assist in the implementation of claims.
- Develop policies to limit early and frequent scope changes.
- Recognize the interests and terms of the Project Company's lenders in the implementation of claims.

## **Change of Ownership**

If the Project Company approaches the Procuring Entity to approve a change of ownership in accordance with the Partnership Agreement, it is important for the Procuring Entity to work closely with the Abu Dhabi Investment Office when assessing this change in order to:

- Consider the interests of the Procuring Entity and broader Government considerations.

- Allocate appropriate resources to assess its financial, commercial, technical, legal, and political impact and engage external advisors when necessary.
- Consider the interests of other relevant parties (such as lenders).

## **Refinancing Process**

The Project Company has typically raised debt capital for the project, and where it has taken on the risk of debt financing, it is generally entitled to rearrange it (though often subject to certain restrictions under the Partnership Agreement).

The financial structure of the Project Company is important to the Procuring Entity because it can affect the financial integrity of the Project Company and the project. For example, refinancing has the potential to raise additional debt that could burden the project and/or increase the Government's contingent liabilities.

Refinancing may be important to the Procuring Entity if the Partnership Agreement contains a clause providing for the sharing of financial gains resulting from refinancing with the Procuring Entity.

The Procuring Entity must work closely with the Abu Dhabi Investment Office when assessing any refinancing-related requests in order to:

- Consider the impact of the proposed refinancing on the interests of the Procuring Entity and broader Government considerations.
- Allocate appropriate resources to assess a potential refinancing, including appointing external advisors when necessary.
- Be aware of opportunities (such as sharing any gains from refinancing) that may be available through refinancing.

## **Reviewable Services**

Several intervals may be allocated for reviewable services, which will provide for certain services to be benchmarked (hard facilities management services) or market tested (soft facilities management services), according to the terms of the Partnership Agreement.

Reviewable services are typically labor-based services such as cleaning, security, and facilities management. Reviewing and testing the cost of reviewable services is a way to try to maintain the competitiveness of

service costs throughout the project's life and ensure that the Government achieves Value for Money. If this approach is adopted in the Partnership Agreement, review points will be specified, and the Procuring Entity will need to prepare to conduct the benchmarking or market testing accordingly.

## **Disputes**

It is common for some form of disagreement or dispute to occur during the contract management period, given the long-term nature and complexity of Partnership Projects. Therefore, the Procuring Entity should focus on preventing disagreements from escalating into disputes where possible. Disputes can damage the relationship between the Project Company and the Procuring Entity, and while they are being resolved, there is a risk that service levels will be affected. The Procuring Entity's objectives should be to resolve disputes, where possible, to make decisions that will ensure the project moves forward in a viable and sustainable manner while maintaining Value for Money, and to manage the dispute appropriately to reach a conclusion quickly, in a cost-effective manner, while maintaining a strong relationship with the Project Company.

The Procuring Entity must work closely with the Abu Dhabi Investment Office when managing disputes, and seek the following in accordance with the terms of the Partnership Agreement:

- Understand the Procuring Entity's rights and obligations; use contractual provisions to protect the Procuring Entity's rights rather than taking punitive measures.
- Monitor the performance of the Project Company to recognize potential problems and mitigate the risk of disputes.
- Accept and settle claims early, where appropriate.
- Deal with disagreements and disputes objectively, not allowing a poor relationship with the Project Company to influence the approach to the dispute, and not allowing a dispute to affect an otherwise positive relationship.
- Clarify ambiguous and unclear contract wording before it leads to a dispute.

- Ensure settlement agreements are prepared with appropriate legal input to ensure the dispute or disagreement is unambiguously resolved.
- Consider the full costs of escalating a dispute and the chosen dispute resolution mechanism.
- Actively seek negotiated outcomes for disagreements and disputes, as these have the potential for greater effectiveness.
- Prepare and assemble adequate resources appropriately before entering negotiations.
- Consider the relevant private sector partners (including the construction contractor) in resolving disagreements and disputes related to them (but in accordance with the terms of the Partnership Agreement).
- Consider identifying experts in disputes of a technical nature and appointing the appropriate expert to identify experts, where available and in accordance with the Partnership Agreement.
- Consider the full implications of taking a dispute to court or arbitration, in accordance with the terms of the Partnership Agreement.
- Select appropriate arbitrators, in accordance with the terms of the Partnership Agreement.
- Maintain contract management files and documents (including notices, letters, and emails) in sufficient format and detail at all times, so that this information is fit for purpose in the event a dispute escalates to arbitration or the courts.
- Develop an open and honest culture where potential sources of claims are identified early, so that they can be mitigated as much as possible.

## **Default and Termination**

It is important that Partnership Agreements are managed in a way that enables the Procuring Entity to identify early indicators of potential default and proactively mitigate the risk of termination, although it should be noted that it may not always be possible to prevent a default.

The Project Company has the ultimate responsibility for complying with the Partnership Agreement and circumstances may arise where the Procuring Entity must give serious consideration to terminating the

Partnership Agreement and taking back the assets or re-tendering the project. The Procuring Entity must work closely with the Abu Dhabi Investment Office (ADIO) when managing default situations in order to:

- Understand the rights of both parties and any agreed pre-termination procedures in the Partnership Agreement and under applicable law.
- Monitor potential defaults by the Project Company in order to manage termination risk at an early stage.
- Consider termination and the full financial and non-financial implications of termination.
- Seek legal advice before issuing a notice of termination.
- Plan early to ensure continuity of service delivery upon termination of the Partnership Agreement.
- Consider all potential implications of replacement, if a replacement Project Company is required.
- Consider the Project Company's lenders including any potential rights they have to step-in to the role of the Project Company under the Partnership Agreement.
- Consider any rights of the Procuring Entity to step-in to take a specific action in place of the Project Company.
- Monitor and ensure compliance with the Procuring Entity's obligations under the Partnership Agreement and applicable law.
- Monitor the performance of key subcontractors, whose termination may represent a significant risk to the project.

## **Impact Assessment**

An assessment of whether the partnership project is being delivered as expected and whether public resources have been used wisely should be made at some point in the life of the Partnership Agreement.

Partnership projects may be subject to different types of ex-post reviews at different times during their performance, and the same type of ex-post review can be conducted more than once during the contract term and for multiple reasons. These reviews may be carried out by the Procuring Entity itself or by another government entity or its appointee.



The objectives of performance and impact assessment are:

- Improve the delivery of future projects more effectively through lessons learned.
- Ensure accountability by demonstrating the status of implementation and its impacts.

The Procuring Entity should ensure that it cooperates with such reviews as much as possible, while ensuring they do not adversely affect the operation of the asset or delivery of related services.

#### 4.10 First and Final Approvals

Phase	Section	First Approval	Final Approval
1	Project Inception	<ul style="list-style-type: none"><li>■ Director General of the Abu Dhabi Investment Office</li><li>■ Head of the Procuring Entity (Head of the Government Entity)</li><li>■ Other relevant approvals (CPEC) Executive Committee of the Executive Council / Executive Council</li></ul>	Executive Committee of the Executive Council / Executive Council
2	Structuring and Due Diligence	<ul style="list-style-type: none"><li>■ Director General of the Abu Dhabi Investment Office</li><li>■ Head of the Procuring Entity (Head of the Government Entity)</li><li>■ Chairman of the Department of Finance / for</li></ul>	Approval of the Executive Committee of the Executive Council / Executive Council on the feasibility study only

Phase	Section	First Approval	Final Approval
		financial matters only	
3	Tendering Process	<ul style="list-style-type: none"> <li>■ Director General of the Abu Dhabi Investment Office</li> <li>■ Head of the Procuring Entity (Head of the Government Entity)</li> <li>■ Chairman of the Department of Finance / for financial matters only</li> </ul>	Executive Committee of the Executive Council / Executive Council
4	Contract Management	<p><b>General Matters:</b></p> <ul style="list-style-type: none"> <li>■ Director General of the Abu Dhabi Investment Office</li> <li>■ Head of the Procuring Entity (Head of the Government Entity)</li> <li>■ Chairman of the Department of Finance / for financial matters only</li> </ul>	<p><b>Substantive Matters:</b></p> <ul style="list-style-type: none"> <li>■ Executive Committee of the Executive Council / Executive Council</li> </ul>