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PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Subject: Provision of Rs.1000 lakhs under Karnataka Viability Gap Fund Investment under PPP framework provided in the Budget 2011-12 under the head of account 5465-01-190-1-20-(plan) sanctions – reg.

Preamble:

The development of Infrastructure projects requires large investments and cannot be undertaken through Public financing alone. Some projects are not financially viable on their own because of their initial large capital requirement, long gestations period and having lower financial returns. Hence they are less attractive to the private sector.

Ministry of Finance, Department of Economic Affairs, Government of India has introduced a scheme of Support to Public Private Partnership projects in Infrastructure. GOI has made provision to financially support the viability gap to the tune of 20% of the cost of the project in the form of capital grant from its viability gap fund. The Scheme is confined to Public Private Partnership projects taken by the Government or by its Agencies, where the private sector is selected through open competitive bidding. Further, it is also mentioned that State Government or its Agencies that owns the project may also provide additional grants out of its budget not exceeding further 20% of the total cost of the project.

Infrastructure is a crucial sector as, has been recognised in Karnataka vision 2020, annually requiring an estimated amount of Rs.23,000 crores to sustain a growth of 9% for the State. To promote Infrastructure Development through Private sector, Government has issued new Infrastructure Policy – 2007 (NIP-2007) which envisages providing VGF to projects procured through competitive bidding route. To give Phillip to boost investments in the Infrastructure Sector, the State Government was therefore considering introducing a new scheme for extending financial support to such PPP projects in various infrastructure sectors to make them viable and attractive to the private investors.

In the budget, for the year 2011-12, under the Head of Account 5465-01-190-1-20, a sum of Rs. 1000 lakhs is provided under Karnataka Viability Gap Investment under PPP framework. The Scheme aims to ensure wide spread access to infrastructure provided through the PPP framework by subsidising the capital cost of their financial requirements. Meeting the funding gap to make economically essential projects, commercially viable, would obviate the need for Government funding for such projects; thus facilitating private sector efficiencies in infrastructure development.

Hence this order.

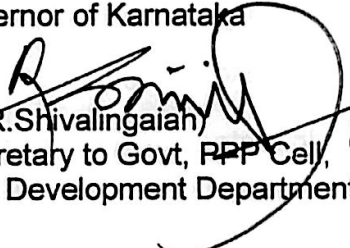
GOVERNMENT ORDER NO.IDD 42 ITS 2011 BANGALORE DATED 12-09-2011

After careful examination of the proposal, Government is pleased to accord the approval to, operationalise the new Scheme under the name and style "Karnataka Viability Gap Fund" and to the detailed operational guidelines evolved in this regard as at Annexure I. Sanction is also accorded for drawal of the funds provided under the head of account 5465-01-190-1-20-Karnataka Viability Gap Fund to an extent of Rs. 1000 lakhs (Rupees One thousand Lakhs only) during the financial year 2011-12.

The drawal of the funds provided under Karnataka Viability Gap Fund shall be as per the detailed operational guidelines contained in the schematic guidelines at Annexure-1 to this order.

This order issues with concurrence of the Planning and Finance Departments vide their U.O.Notes No. PD 17 FRO 2011 dated 23-06-2011 and FD 1132 Exp-1/11 dated 12-07-2011 respectively.

By order and in the name of the
Governor of Karnataka


(R. Shivalingaiah)
Under Secretary to Govt, PPP Cell,
Infrastructure Development Department. 12/9/2011

To,

The Compiler Karnataka Gazette for publication in the gazette of next issue and to supply 50 copies to this department.

Copy to:

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2. The Accountant General in Karnataka (A&E), Bangalore.
3. The Senior Director, PF & R Divn, Planning Department, MS Building II Stage, Bangalore.
4. The Under Secretary (Exp.1), Finance Department, Vidhana Soudha.
5. PS to Secretary, IDD.
6. S.G.File/Spare copies.

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Annexure to GO bearing No. IDD 42 ITS 2011 Bangalore dated 12-09-2011

Scheme for Financial support to Public Private Partnership in Infrastructure i.e. Karnataka- Viability Gap Fund(K-VGF).

Government of Karnataka

Infrastructure Development Department

Dated: 28/05/2011

Read:

- 1) A Guidelines for Financial Support to PPPs notified by Ministry of Finance, Department of Economic Affairs vide OM No. 1/4/2005-PPP dated January 23, 2006.
- 2) New Infrastructure Policy - 2007 for the State of Karnataka

Introduction:

The development of Infrastructure Projects requires large investments and cannot be undertaken through public financing alone. Such projects are not financially viable on because of their initial large capital requirement, long gestation period and having lower financial returns. Hence they are less attractive to the private sectors.

Ministry of Finance Department, Department of Economic affairs has introduced a scheme for support to public private partnership (PPP) in infrastructure. G.O.I. has made provision to financially support the viability gap to the tune of 20% of the cost of the project in the form of capital grant from its viability gap fund. The scheme is confined to Public Private Partnership projects taken by the Government or its agencies, where the private sector is selected through open competitive public bidding.

Under the scheme (Read Para 5 of the Sl no 1) of Government of India, a provision has been made that Government of India's support will be limited to tune of 20% of the cost of the Project. It is also mentioned that State Government or its agencies that owns the project may also provide additional grants out of its budget not exceeding further 20% of the total cost of the Project.

Infrastructure Development, is a crucial sector as recognized in Karnataka Vision 2020, and annually requires an estimated Rs 23000 Cr to sustain a growth of 9% for the state. To promote infrastructure development through private sector Govt has issued New Infrastructure Policy – 2007 (NIP-07), which envisages providing VGF (refer Schedule-III of NIP-07) to projects procured through Competitive Bid route.

To give effect State Government was therefore considering introducing a new scheme for extending financial support to such PPP Projects (as procured under New Infrastructure Policy – 2007) in the sectors of infrastructure to make them viable and attractive to the private investors.

1. The Scheme:

The Scheme will be for financial assistance to the projects having Public Private Partnership in the sectors of Infrastructure. It will be known as "Viability Gap Funding Scheme" and will be implemented by IDD.

It will come in force from the date of issue of this scheme and will remain in operation for the period of 5 years.

2. Definitions:

In this Policy, unless the context otherwise requires:

- (i) "Single Window Agency (SWA)" means agency constituted by GoK at the State Level for approval of projects up to Rs. 50 Cr and for recommending projects beyond Rs 50 Cr to the High Level Committee.
- (ii) "State High Level Committee (SHLC)" means the Committee formed under the Chairmanship of the Chief Minister constituted under Section 3 of the Karnataka Industries (Facilitation) Act 2002.
- (iii) "Lead Financial Institution" means the financial institution (FI) which is funding the PPP project and in case there is a consortium of FIs, the FI designated as such by the consortium.
- (iv) "Private Sector Company" : means a Company in which 51 % or more of the subscribed and paid up equity is owned and controlled by a private entity.
- (v) "Project Term" means the duration of the concession agreement for the PPP Projects, entered in to as per the contractual structures in Para 21 of NIP-07.
- (vi) "Public Private Partnership (PPP) Project" means a project based on a concession agreement between State Government, Government agency or specified Government agency on one side and private sector (company) on the other side, for delivering infrastructure services on payment of user charges, as per the provisions of NIP-07.
- (vii) "Total Project Cost" means the lower of the total capital cost of the PPP Project;
(a) as estimated by the State Government, Government agency or specified Government agency which owns the project. (b) Sanctioned by the Lead Financial Institution, but does not in any case include the cost of land incurred by the State Government, Government agency or specified Government agency;

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(viii) "Viability Gap Funding or Grant" means a grant, one - time or deferred, provided under this Scheme with the objective of making a project commercially viable.

3. Eligibility:

(a) The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a Private Sector Company to be selected by the Government or Government agency or specified Government agency through competitive Public Bidding route prescribed under para 27 of NIP-07, as amended from time to time. In case of Railway projects that are not amenable to operation by a Private Sector Company, the SHHLC may relax this eligibility criterion.

Provided further that no assistance under this policy can be sanctioned to existing ongoing BOT / BOOT projects.

Provided further that no assistance under this policy can be sanctioned to Swiss Challenge projects that come up under Para 29 of the NIP-07.

- (b) The PPP Project should be from one of the sectors as described under Para 13 of NIP-07 which may be modified from time to time.
- (c) The project shall provide a Service against Payment of a pre-determined Tariff or User charges.
- (d) The State Government, Government agency or specified Government agency as the case may be, should certify, with reasons:
1. That the tariff / user charges cannot be increased to eliminate or reduce the viability gap of the PPP Project. (Refer format at Annexure)
 2. That the Project Term cannot be increased for reducing the viability gap(Refer format at Annexure); and
 3. That the capital costs are reasonable and based on the standards and specifications normally applicable to such projects and that the capital costs cannot be further restricted for reducing the viability gap (Refer format at Annexure).
- (e) The Scheme shall be applicable to both types of projects i.e. projects where in Government of India has sanctioned assistance under their Scheme and those, wherein such assistance is not sanctioned or the project has not been submitted to Government of India for such assistance if it does not fall in the GOI approved sectors for VGF.

(f) The quantum of total Viability Gap Fund shall be determined after clearly and explicitly calculating all project costs and incentives / concessions:

- i) Taking into account all costs of the projects, excluding cost of land, and land related charges such as Stamp Duty & Conversion fine
- ii) Taking into account all other incentives granted, including assed based support and the foregoing of revenue streams, and including any other financial incentive granted under any other sector policy, or scheme of the Central Government, Central Government Agency, Government or Government Agency.

(g) This will not be available to the procurement made under Swiss Challenge route.

4. Government Support:

- (1) The total viability Gap Funding under this scheme shall not exceed 20% of the Total Project Cost excluding any VGF provided under GOI scheme.
- (2) Viability Gap Funding under this scheme will normally be in the form of a capital grant at the stage of project construction. Proposals for any other form of assistance may be considered by the SWA and sanctioned on a case to case basis, with the approval of SHLC.
- (3) Viability gap funding and the amount thereof will be sanctioned by the SWA subject to budgetary ceiling and with regard to the nature of the project and priority of the State including regional and sectoral balance.
- (4) In the first two years of operation of the scheme, projects meeting the eligibility criteria will be funded on a first-come, first served basis. In later years, if need arises, funding may be provided based on an appropriate formula, to be determined by SHLC, that balances needs across sectors in a manner that would make broad base the sectoral coverage and avoid preempting of funds by a few large projects.
- (5) It shall not be open for the project owner to get benefit of any other Scheme of the State Government when assistance has been sanctioned under this scheme except for the allowed incentives under Para 45 and Schedule III of NIP-2007 .

5. Approval of Project proposals:

- (1) Project proposals may be submitted to SWA through State PPP cell in IDD by State Government agency or specified Government agency which owns the underlying assets. The proposals shall include the requisite information necessary for satisfying the eligibility criteria specified in paragraph 3 above (Refer format at Annexure X).

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- (2) Projects based on standardized / model documents duly approved by the State Government would be preferred. Stand-alone documents may be subjected to detailed scrutiny by SHLC.
 - (3) SWA will consider the project proposals for Viability Gap Funding and may seek the required details for satisfying the eligibility criteria.
 - (4) Within 30 days of receipt of a project duly completed as aforesaid, SWA shall inform State Government, Government agency or specified Government agency as the case may be whether the project is eligible for financial assistance under this scheme. In case the project is based on standalone documents (not being duly approved model/standard documents), the approval process may require an additional 60 days.
 - (5) Notwithstanding the approval granted under this scheme, projects promoted by the State Government or its agencies shall be approved and implemented in accordance with the procedure specified by the Board from time to time.

6. Procurement process for PPP Projects

- (1) The Private Sector Company shall be selected through a transparent and open competitive bidding process, as specified under Para 27 of the NIP-2007. The criterion for bidding shall be the amount of Viability Gap Funding required by a Private Sector Company for implementing the project where all other parameters are comparable.
- (2) The Government or statutory entity proposing the project shall certify that the bidding process conforms to the provisions of this scheme and convey the same to SHLC prior to disbursement of the grant.

7. Appraisal and monitoring by lead financial institution:

- (1) Within four months from the date on which eligibility of the project is conveyed by SHLC to the concern Government / statutory entity, the PPP Project shall be awarded in accordance with paragraph 6 above;

Provided that upon application made to it by the concerned Government / statutory entity. SHLC may extend this period by not more than two months at a time.

- (2) The Lead Financial Institution shall within three months from the date of bid award, present its appraisal of the project for the consideration and approval of SWA. Provided that upon application of the State Government or concerned agency, SWA may extend this period by not more than one month at a time.

- (3) The Lead Financial Institution shall be responsible for regular monitoring and periodic evaluation of project compliance with agreed milestones and performance levels, particularly for the purpose of disbursement of Viability Gap Funding. It shall send quarterly progress report once every quarter for review by the SWA.

8. Disbursement of Grant:

- (1) A Grant under this scheme shall be disbursed only after the Private Sector Company has subscribed and expended the equity contribution for the project and will be released in proportion to debt disbursements remaining to be disbursed thereafter.
- (2) SWA will release the Grant to the Lead Financial Institution as and when due. In case of additional grant to be released by the local State Government or any other statutory body, the SHLC may release fund under this scheme in proportion to the grant released by such bodies.
- (3) The representative of the SHLC, the Lead Financial Institution and the Private Sector Company shall enter into a Tripartite Agreement for the purpose of this scheme. The format of such Tripartite Agreement shall be prescribed by <SHLC>. <SHLC> shall disburse funds to the respective lead Financial Institutions and debit as the case may be to <K-VGF Head.....> under the Karnataka VGF scheme.

State PPP cell (in IDD) will keep necessary proper record in proper pro-forma and shall maintain a separate account for the utilization of this grant.

9. Revolving Fund:

- (1) A revolving fund of Rs 200 Crore (Rs Two Hundred crore) shall be provided by the Finance Dept towards the VGF to SWA/ State PPP cell (in IDD). The SWA shall disburse funds to the respective lead financial institutions and claim reimbursement thereof from the Finance Dept/ State Budget.

Government of Karnataka

ID/42/ITS/2011

Karnataka Government Secretariat
Vikasa Soudha,
Bangalore, Dated 30.01.2012.
Tel. No. 22034070 / Fax: 22281123

Corrigendum

Ref: GO No IDD 42 ITS 2011 dated 12-09-2011

In the annexure to the GO No IDD 42 ITS 2011 dated 12-09-2011. The schematic guidelines at SL No 3(a) of 8th line

Provided further that no assistance under this policy can be sanctioned to existing ongoing BOT/BOOT projects.

Provided further that no assistance under this policy can be sanctioned to Swiss Challenge Project that come up under Para 29 of the NIP-07.

Shall be read as follows

Provided further that no assistance under this policy can be sanctioned to existing ongoing BOT/BOOT Projects, the procurement of which is through Swiss Challenge route that has come up under Para 29 of the NIP-07

SI No 3(f)(g) shall be treated as deleted.

At SI No 9

9 Revolving Fund

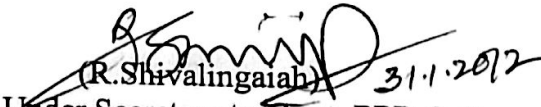
(1) A revolving fund of Rs 200 Crore (Rs Two Hundred Crore) shall be provided by the Finance Dept towards the VGF to SWA/State PPP Cell (in IDD). The SWA Shall disburse funds to the respective lead financial institutions and claim reimbursement thereof from the Finance Dept / Stage Budget.

Shall be read as follows

9. **Source of funds to meet the viability gap requirements of the eligible infrastructure projects:**

The requirement of funds to meet the viability gap in respect of eligible infrastructure projects shall be provided annually in the budget. The IDD would forecast the requirement of funds in respect of the eligible projects well in advance so as to enable the Finance dept to provide for the same in the annual budgets. No separate fund outside the consolidated fund would be created. However, provision would be made under the HOA 5465-01-190-1-20 (Plan)-Karnataka Viability Gap funds on year to year basis. Govt. would also explore the possibility of having separate funds within the consolidated fund to ensure available of funds on timely basis to meet the viability gap requirement of the eligible infrastructure projects. The SLSWA shall cause to disburse funds to the respective lead financial institutions from time to time as and when required based on the provision made in the budget on yearly basis.

By order and in the name of the
Governor of Karnataka


(R. Shivalingaiah) 31.1.2012
Under Secretary to Govt, PPP Cell,
Infrastructure Development Department.
P. 3011

To,

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4. The Under Secretary (Exp..1), Finance Department, Vidhana Soudha
5. PS to Secretary, IDD / PA to DS-I & DS-III.
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GOVERNMENT OF KARNATAKA

ID/42 / ITS / 2011

Karnataka Government Secretariat
Vikasa Soudha, Bangalore.
Tel No. 22034070/Fax No. 22281123.
Dated:20.06.2013

Corrigendum-2

- Ref: 1. GO No. IDD 42 ITS 2011 dated 12.09.2011.
2. Corrigendum No. IDD 42 ITS 2011 dated 31.01.2012

In the Para 8(3) of the Annexure I (KVGF Guidelines) to the GO bearing No. IDD 42 ITS 2011 dated 12.09.2011, the words “The representative of the SLSWA, the Lead Financial institution and the Private Sector Company shall enter into a Tripartite Agreement for the purpose of this scheme. The format of such Tripartite Agreement shall be prescribed by SLSWA. SLSWA shall disburse funds to the respective Lead Financial Institutions under the Karnataka VGF scheme from out of the funds made available on annual basis” shall be read as below:

“After Empowered Institution executed the Tripartite Agreement (TA) with the State Dept/Agency, the Lead Financial Institution and the Private Sector Company, SLSWA shall disburse funds to the respective Lead Financial Institution as per Concession Agreement”.

By order and in the name of the
Governor of Karnataka

M. Venkatesh Murthy
(M. Venkatesh Murthy)

Under Secretary to Government,
Infrastructure Development Department.

M. Venkatesh Murthy

To,
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